

***United States Court of Appeals
for the Second Circuit***



APPENDIX

74-1138

Original

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Pg 5*

In The
United States Court of Appeals
For The Second Circuit

UNITED STATES OF AMERICA,

Appellee,

vs.

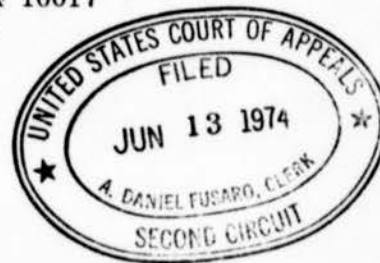
THOMAS JOSEPH CARROLL, VINCENT McCLOSKEY and
WILLIAM McCLOSKEY,

Appellants.

APPELLANTS' APPENDIX

Volume IV, pp. 901a - 1200a

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1
2 MR. DIRENZO: I say normally I could not reason-
3 ably object to that.

4 THE COURT: In any case, I wouldn't --

5 MR. DIRENZO: But I think it is so prejudicial,
6 recognizing that the defendant enjoys the presumption of
7 innocence, recognizing that the defendant does not have to
8 testify, in effect, this witness is saying to this jury that
9 this defendant does, in fact, have one. I think under those
10 circumstances, the prejudicial damage is far more --

11 THE COURT: Do you suppress the words that a
12 person has used?

13 MR. DIRENZO: I think, though, with reference to
14 the attitude and conduct of the prosecutor, knowing that
15 something like this is going to happen and can do irreparable
16 damage, I think he should have alerted us and alerted the
17 Court so that we could have taken appropriate steps -- your
18 ruling might have been the same --

19 THE COURT: It would have been.

20 MR. DIRENZO: Well, I don't know, your Honor, but
21 I think under those circumstances that is at least a duty I
22 felt he owed to us. But accordingly, it came -- it's already
23 been testified to and predicated thereon, I move for a mis-
24 trial and respectfully except to your Honor's ruling.

25 THE COURT: Motion denied.

1
2 Tomorrow morning -- rather, by this evening, I
3 want from you, Mr. Kenney, any authority that you have regard-
4 ing the Dexter memorandum.

5 MR. KENNEY: We would cite your Honor to United
6 States versus Trudo and it is found at 449 F.2d 649.

7 THE COURT: Thank you.

8 MR. KENNEY: 1971 Second Circuit case.

9 THE COURT: Will you review the transcript of
10 this morning's testimony before we resume tomorrow morning to
11 ascertain whether you're going to pursue this question of the
12 identification of McCloskey.

13 MR. KENNEY: May I ask your Honor about a ruling
14 that you made during the trial today, which I must have been
15 unclear on?

16 It was my understanding that the Court was going
17 to consider tomorrow whether the government would be able to
18 put in a prior identification but that, number two,
19 Mr. Martin had opened on his cross-examination the identity
20 of the person who went into the diner.

21 THE COURT: I don't want to go over it all again,
22 Mr. Kenney.

23 MR. KENNEY: I would be willing to drop -- I
24 just want to elicit his identifications.

25 THE COURT: I think you ought to go read the

1 testimony and I think you will find out that there is no
2 testimony here upon which anyone can argue that the identi-
3 fication of McCloskey was unclear because you are tying it
4 up to the Tuesday night or Wednesday night meeting.
5

6 MR. KENNEY: I'm saying, your Honor, I would be
7 willing to drop that point entirely. I was attempting only
8 to elicit on redirect what in fact this man's testimony was
9 as to his identifications now, not to put in a prior identi-
10 fication.

11 The objection was to when I asked him who was
12 the man who went into the diner. I was not attempting to
13 put in the prior identification. I just wanted to rehabili-
14 tate his testimony and leave it at that.

15 THE COURT: Rehabilitate his testimony when he
16 was so definite and certain that he couldn't tell who it was
17 even though he identified McCloskey in this courtroom?

18 MR. KENNEY: Your Honor is saying the record
19 indicates he made no identification of the man who was in
20 the diner, yet he was questioned extensively --

21 THE COURT: He was, and he consistently kept
22 saying he couldn't identify him. But he identified
23 Mr. McCloskey very clearly here in the courtroom.

24 MR. KENNEY: Your Honor, we drop the point
25 entirely.

1 THE COURT: Great.

2
3 MR. KENNEY: We don't think it is that important,
4 but we thought it was proper or redirect to raise it.

5 THE COURT: You go read the testimony and you
6 will find out.

7 All right.

8 (Case adjourned to Friday, December 14, 1973,
9 at 10:00 a.m.)
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905a

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UNITED STATES OF AMERICA

v.

73 Cr. 855

THOMAS JOSEPH CARROLL, et al.

December 14, 1973
10:00 a.m.

(In open court; jury not present.)

THE COURT: First I want to clear up the matter that involved extended discussion yesterday, and that is the question of the identification of the defendant Vincent McCloskey by the witness Paul Crawford.

At Page 433 of the transcript, Crawford says that on Wednesday they went to New Jersey, went to a bar, and Chester went inside and spoke to somebody. He doesn't know who he talked to, but that he, Paul Crawford, remained outside with Geoffrey and Terry, and Chester came out and they left.

He then says on Thursday morning they went to a diner and at that time he says he met the defendant, Mike McCloskey, whom he identified here in the courtroom.

The cross-examination by Mr. Martin went solely to whether the witness could identify the person to whom Chester was speaking on Wednesday night -- it had nothing to do with the identification on Thursday morning. So there was no problem of misidentification or possible

misidentification or questioning the identification by Mr. Martin, based on his cross-examination of what occurred on Wednesday night.

We now take up the question of the exhibit that was offered yesterday by Mr. Kenney in conjunction with the testimony of the witness Gerald Dexter.

That document, which I don't think was marked for identification on this trial, was it?

MR. KENNEY: It was not.

THE COURT: Would you mark this, please, as the next Government exhibit for identification.

(Government's Exhibit No. 7 marked for identification.)

MR. KENNEY: May we ask that the earlier exhibit stamp be removed?

THE COURT: Maybe you need that for the suppression hearing. Leave on the "2," and mark it "suppression hearing," and put on this one, "for trial."

Counsel had objected on the record to the admission of this document, as I recall it; Mr. Direnzo, Mr. Martin, Mr. Hafetz and Mr. Hopper.

I have read that exhibit overnight, and I find that it's admissible under the ruling of the Second Circuit in United States v. Trudo, 440 F.2nd 649, a decision

COURT REPORTERS AND COURT REPORTERS

UNITED STATES COURT HOUSE

NEW YORK, N.Y. 10007 TELEPHONE: CORTLAND 2-4800

2 handed down on September 21, 1971.

3 A reading of that document shows that it deals
4 solely with the inculcation of the defendant Rippey; none
5 of the other defendants are mentioned; and in addition,
6 it merely confirms the involvement of the Crawfords and
7 of Terry, which has already been testified to by those
8 individuals from the stand.

9 Consequently, the document is admissible.

10 And, in conjunction with that, I should point
11 out that Mr. Martin has submitted to the Court this morning
12 a one-page yellow sheet, making the same objection that
13 was made yesterday afternoon to this document. Of course,
14 that motion is also denied, and is encompassed within
15 the Court's ruling.

16 MR. HAFETZ: May I inquire, is the document
17 being offered into evidence itself?

18 THE COURT: I gathered that it was going to be.
19 Is that true, Mr. Kenney?

20 MR. KENNEY: Your Honor, we intend to call Mr.
21 Dexter, although not today, probably the beginning of
22 next week, after Mr. Myers finishes his testimony and
23 another accomplice witness, and elicit what was in fact
24 said. We would then offer the statement.

25 THE COURT: You have heard Mr. Kenney.

MR. HAFETZ: Well, I will reserve my objection to that time. I am going to object to the document coming in itself. It's not a signed statement.

MR. MARTIN: If your Honor please, may I ask that my motion be marked as an exhibit for the record, please?

THE COURT: All you did is give me three cases. I have denied the motion.

MR. MARTIN: But I just wanted to point out for the record it was a motion both for a mistrial and for a severance.

THE COURT: Motion denied.

MR. MARTIN: Thank you.

THE COURT: Bring the witness Myers back.

MR. KENNEY: I am informed by the marshal, about five minutes after 10:00, that Myers was still on his way over, and the reason for this is they apparently only have one van, and they bring the defendants over first, then go back to get Myers.

THE COURT: Don't you have Dexter here?

MR. KENNEY: I don't, no, your Honor. Mr. Dexter went back to Washington last night. He won't be back until next week.

THE COURT: Monday, I hope.

MR. KENNEY: Yes, your Honor. Well, we have him on call. We want to see what the cross-examination is here. But he'll be back. He can be back on several hours' notice.

THE COURT: Not with the weather today. I think you'd better have him here Monday morning.

MR. KENNEY: Yes, your Honor.

THE COURT: That means he ought to come up Sunday night.

All right, we will wait for the witness.

(Recess.)

(Jury in box.)

TERRENCE DEWEY MYERS, resumed.

(Mr. Murray Mogel, attorney for Mr. Myers, took a seat next to the witness stand.)

THE CLERK: The Court wishes you to know, Mr. Myers that you are still under oath.

DIRECT EXAMINATION

BY MR. KENNEY (Continued)

Q Mr. Myers, when we left last night you were testifying about a conversation you had in a tavern in New Jersey on Wednesday night, the night of March 21, with the defendant Tommy Carroll, and I believe you said you stayed that night in the Lincoln Tunnel Motel? Is that correct?

A Right.

Q Directing your attention to the next day, which would be Thursday, March 22, 1973, would you tell us, did you meet with Chester Crawford on that day?

A Yes, I did.

Q When did you meet with him?

A He picked us up early that morning from the motel.

Q When you say "us," tell us who you are speaking about.

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1 A Myself and Geoffrey Mann.

2 Q Where did you go from the Lincon Motel?

3 A From the Lincoln Motel he took us to a barren
4 lot, some kind of parking lot in another part of New Jersey.

5 Q How far away was that lot from the motel?

6 A I don't know.

7 Q Could you tell us approximately how long it took
8 you to get there?

9 A About ten minutes.

10 Q Was there anything on the lot?

11 A A trailer; some kind of trailer.

12 Q Did you meet anyone at the lot?

13 A Right.

14 Q Who did you meet at the lot?

15 A On the lot I met a man by the name of Jack and
16 a man by the name of Mike.

17 Q Do you know Jack's last name?

18 A Well, I have been told that it is Turner.

19 Q Do you see him in the courtroom today?

20 A No, I don't.

21 Q Do you know Mike's last name?

22 A I have been told that it is McCloskey.

23 Q Do you see him in the courtroom today?

24 A Yes, I do.

1
2 Q Would you point him out?

3 A He is the gentleman sitting there with the
4 green fatigue suit.

5 MR. MARTIN: Indicating the defendant Vincent
6 McCloskey.

7 Q Was there a conversation while you were at the
8 lot?

9 A Yes, there was.

10 Q Will you tell us where you were physically at
11 the lot? Were you standing or sitting in a car? Or where
12 were you?

13 A We were sitting in the car.

14 Q What car were you sitting in?

15 A Chester Crawford's.

16 Q Who else was in that car?

17 A Chester, myself, Geoffrey, Mike and Jack.

18 Q Was there another car at the lot?

19 A Yes, there was.

20 Q Did you see who came in this car?

21 MR. DIRENZO: I object to the question.

22 THE COURT: Reframe it.

23 Q Was there anyone in that car?

24 A Well, Mike and Jack drove up in it.

25 Q At this point there was no one in that car then?

1
2 A No.

3 Q Did you have a conversation while you were at
4 the lot?

5 A Yes, we did.

6 Q Will you tell us what was said and who said
7 it, the best you can recall?

8 MR. DIRENZO: Do we know who the participants
9 of that are?

10 THE COURT: He has already told you the five
11 in the car, and he is now going to tell you what was said
12 to the best of his recollection.

13 MR. DIRENZO: I only asked it because I didn't
14 understand the five were in the car.

15 THE COURT: There was Geoffrey, Terry, Chester
16 Crawford, Jack and Mike.

17 Is that correct?

18 THE WITNESS: Right.

19 Q Will you tell us what was said in the car and
20 who said it, to the best of your recollection?

21 A The night before we left the tavern to go to
22 the motel Chester told us we would be picked up that morning
23 because we had to be tested, and he just left it at that.
24 When we got to the lot Jack told us that he had a payroll
25 he wanted us to take to see how we operated and how efficient

we were as far as holding up. He told us that this was necessary and they had to see so he could report it to somebody he called The Capo.

MR. DIRENZO: I move that that be stricken.

THE COURT: Overruled. He said the defendant said that.

MR. DIRENZO: I understand. May I also note my motion for a mistrial, your Honor?

THE COURT: Denied.

Q Was there anything else said at that time?

A He told us that if we wanted to go through with that he could give us all the information concerning a payroll clerk or some type of a person who was going to a bank and pick up a payroll.

Q Was that all that was said by you in the car?

A No, it was not.

Q Will you tell us everything you can recall that was said?

A Mike also told us that Jack would be the one that would disconnect the buzzer, or some type of electronic device, on the mail truck, and that that was his job, and that they only had 20 minutes to get the truck to where they had to get it to, which I didn't know where that was, and that would I be able to take care of the guard and the

1 driver, and, you know, like put them out of operation for
2 at least 20 minutes or a half an hour.

3 Q Now, is that all that was said at that time?

4 A He also told me that Jack would be the one to
5 drive the truck after we had accosted the driver and the
6 guard. And that is about the conversation.

7 Q How long were you at the lot in the car, all
8 five of you?

9 A We didn't stay in one car that long, but,
10 physically, either in one car or both cars we were in the
11 lot about an hour or so.

12 (Continued on page 580.)
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Q Is it correct to say that you were in and out of the cars?

A Right.

Q Now, did there come a time when you left that lot?

A Yes, we did.

Q And whose car were you in when you left?

A Chester's.

Q Who else was in that car?

A Chester, myself, Geoffrey and Jack.

Q And did you see whether the other car moved or not?

A The other car was behind us.

Q And who was in that car?

A Mike and Paul Crawford.

Q Where did you go?

A First we went by a bank in New Jersey and Jack pointed out to me that this was the bank that this person would pick up the payroll from, and then he saw the car that this payroll clerk or whoever he was was driving, and we set to follow him, you know, we followed him.

Q Where did the car go?

A I don't know exactly where it went. It went

2 someplace out on the parkway and came back.

3 Q And would you tell us where you followed the
4 car to?

5 A I don't know that, either. I believe someplace
6 else in New Jersey.

7 Q What was the next thing that you did after you
8 followed the car?

9 A We followed the car someplace in New Jersey and
10 we lost it. And so we came back to the bank. When we
11 got back to the bank the car we were following was there.

12 Q What did you do then?

13 A Jack told us that this clerk or whoever he was
14 was in the bank and that he'd be coming out with the
15 money in about three or four minutes.

16 Q And what happened next?

17 A Geoffrey and I got out of the car, Chester
18 parked someplace. I don't know where he parked and I
19 don't know where Mike parked. When the payroll clerk
20 came out, we robbed him.

21 Q Now, did you have anything in your hand when you
22 robbed the payroll clerk?

23 A I had a pistol.

24 Q And where did you get the pistol?

25 A I got the pistol from Chester.

Q And when did you get it from Chester?

A This would have been when we were sitting on the lot.

Q And did you see where Chester got the pistol from?

A No, I didn't.

Q When you say, "We robbed him," who was the other person or persons?

MR. MARTIN: I am going to object to that, if your Honor please.

THE COURT: Who were the other persons who participated in the act?

MR. MARTIN: I am objecting to the conclusion, that there was a "we."

THE COURT: This is the fellow who said he did it.

MR. MARTIN: He did it, but I am objecting to the generalized "we."

THE COURT: Overruled.

MR. DIRENZO: Of course, we have a continuing objection to this entire line of questioning on the grounds previously urged, your Honor.

THE COURT: Yes, you do, obviously.

MR. DIRENZO: Thank you.

Q When you said, "We robbed him," who were you speaking about?

A Myself and Geoffrey Mann.

Q And did you know whether Geoffrey had anything in his hand?

A No, he didn't.

Q Now, would you tell us just what you did with this payroll clerk?

A Right before he got to this car, I put the gun in his back and told him to freeze. I then turned him around, put him in his own car, took his car keys, and then made him slide over to the passenger's side of the car.

Geoffrey got in the back seat, and I got in the front and drove the car off.

Q Where did you drive to?

A I took him to a lot by an old warehouse.

Q And can you explain to us how you knew where to drive?

MR. DIRENZO: Objected to.

THE COURT: Overruled.

A I didn't know exactly where to drive. I knew the general direction to drive in, because Chester told me that he would be behind me and he would pick me up

as soon as I was finished with the payroll clerk.

Q And would you tell us now where did you take the payroll clerk?

A I took him to a barren lot by a warehouse.

Q When you reached there, what did you do?

A I took the payroll from him and handed it to Geoffrey. I handed the pistol to Geoffrey, told him to get out of the passenger's side of the car and I made him walk behind the warehouse, and I dropped his keys on the ground by the car, and told him to wait approximately five minutes, and that he could come back and find his keys.

Q Now, when you say "he," you are referring to the payroll clerk?

A Right.

Q And did he get out of the car?

A Yes, he did.

Q And did he walk as you described?

A Yes, he did.

Q And after he started to walk, did you do anything?

A I waited till I saw Chester pull up and then we got in the car and took off.

Q Was there anyone in the car with Chester at that

1
2 time?

3 A No, there wasn't.

4 Q After you left with Chester, did you go any-
5 place?

6 A We went back to, close to the Lincoln Motel
7 in New Jersey, but we didn't go to the Lincoln Motel.
8 We were in that general vicinity.

9 Q You and Chester and Geoffrey?

10 A Yes, right.

11 Q And did you meet anyone?

12 A Yes. We met Mike, Jack and Paul.

13 Q And where did you meet them?

14 A Where we were parked at.

15 Q You met them in a parking area?

16 A No, this was just an ordinary street.

17 Q Parked on the street?

18 A Right.

19 Q What did you do when you met Mike, Jack and
20 Paul?

21 A Chester, Mike, Jack and myself went to a
22 motel, divided up the money.

23 Q And do you recall where that motel was?

24 A No, I don't.

25 Q Now, how much money did you get?

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2 A We split the money fifty-fifty. I don't
3 remember. It was eight or nine thousand dollars. I don't
4 know.

5 Q When you say fifty-fifty, who got your half,
6 you and who else?

7 A Myself and Geoffrey.

8 Q And who got the other half, if you saw?

9 A I gave it to Jack. I don't know exactly what
10 he did with it. I can only assume that.

11 Q Did there come a time when you left this motel?

12 A Yes, we did.

13 Q And where did you go from there?

14 A From there we went into New York.

15 Q When you say "we," who went with you?

16 A Chester, Paul, myself and Geoffrey.

17 Q And where did you go in New York?

18 A I believe it's called midtown Manhattan. I'm
19 not sure.

20 Q And what did you do?

21 A We checked into a motel.

22 Q Do you remember the name of that motel?

23 A The Ramada Inn.

24 Q And did anyone check in with you?

25 A Myself, Geoffrey and Paul Crawford.

Q And after you checked into the motel, did you do anything else?

A We went up on Broadway -- I guess it's Avenue, I don't know, or Street.

Q Did anything happen to your car that afternoon?

A Yes, I had given the car to Paul. He was driving it someplace. I told him to park it, really, and he parked it in a tow-away zone, and the police must have absconded it or something.

Q Who is "he"? Who parked the car in the tow-away zone?

A Paul Crawford.

Q Did you have Chester with you at this time?

A No, he wasn't.

Q So, at this point, it was yourself, Geoffrey and Paul Crawford; is that right?

A Right.

Q Did there come a time when you met with Chester or any of the other persons that you have mentioned on that day, the 22nd?

A We met with Chester later on that evening.

Q And where did you meet with Chester?

A At the Ramada Inn.

Q After you met with Chester at the Ramada Inn,

1 did you go anyplace?

2
3 A No, I didn't go anyplace. I stayed at the
4 Ramada Inn.

5 Q Did Chester leave the Ramada Inn?

6 A Yes, he did.

7 Q Did anyone go with Chester?

8 A Right, Paul Crawford and Geoffrey Mann.

9 Q Did you do anything else on that day?

10 A I went and got something to eat; stayed in
11 the hotel most of the night.

12 Q Did you see Geoffrey or Paul or Chester again
13 that night?

14 A I saw Geoffrey and Paul later on, about an
15 hour, I'd say.

16 Q Now, when they returned, did you have a conver-
17 sation with them?

18 A I had a conversation with Geoffrey.

19 Q And do you recall what was said?

20 A Yes, I do.

21 Q Would you tell us what was said?

22 MR. DIRENZO: Objected to.

23 THE COURT: What did you say?

24 MR. DIRENZO: I said, I objected to that, your
25 Honor.

1 THE COURT: Overruled.

2 Go ahead.

3
4 A Chester had taken Geoffrey down to the
5 Wall Street district --

6 MR. MARTIN: I am going to object to that and
7 ask that be stricken, if your Honor please.

8 THE COURT: Sustained.

9 Just tell us what you saw, not what they told
10 you.

11 Go ahead, Mr. Kenney.

12 Q Would you just tell us what Geoffrey said to
13 you, if you remember, and what you said to him?

14 A Geoffrey had told me he had taken him down to
15 the Wall Street district, and he told me Chester took
16 him over the entire route of the mail truck and that
17 Chester had said he wanted him to pick out the street
18 that we were going to stop the truck on, so that they
19 went over the entire truck route, and Geoffrey saw all
20 the streets that the truck goes on, from the second stop
21 at the post office to the bank.

22 Q And was anything else said?

23 A He told me that the street that I had previously
24 picked out looked like the best one, so he said we should
25 go with that.

Q Now, did you stay at the Ramada Inn that night?

A Yes, I did.

Q And the next day, Friday, the 23rd of March, did you go anyplace?

A I came back to Washington, D.C.

Q And how did you go back to Washington?

A By plane.

Q And what was your purpose in returning to Washington?

A Well, the police had impounded my car and it was on a lot, some kind of impounding lot near the water or something, and I went down there to get it. I had the money but I didn't have my registration, so the officer told me that without my registration I couldn't get it, so I had to come back to D.C. to get it.

Q And did you return to New York?

A Yes, I did.

Q When did you return to New York?

A That evening.

Q Is that Friday evening?

A Right.

Q When you returned to New York did you meet with anyone?

A Chester picked me up at the airport and brought

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me back to the Ramada Inn.

Q When you returned to the RAMADA Inn, did you meet with anyone there?

A I met Geoffrey and Paul.

Q And was Chester with you at that time?

A Yes, he was.

Q After the four of you were together at the Ramada Inn, did you go anyplace?

A Geoffrey drove me down to this impounding lot.

Q And did you get your car there?

A Yes, I did.

Q And did you then return to the Ramada Inn?

A Yes, I did.

Q Now, after you returned to the Ramada Inn, did you go anyplace on that day?

A Not until that night.

Q What time that night?

A I'm not quite sure about the time. I'd say about 9:00 or 10:00 o'clock.

Q And where did you go at that time?

A We came back over into New Jersey.

Q When you say "we," will you tell us who went to New Jersey?

A Myself, Geoffrey and Paul Crawford.

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1
2 Q Whose car did you go to New Jersey in?

3 A Geoffrey Mann's.

4 Q Where did you go in New Jersey?

5 A We went to the same tavern that I had previously
6 been at.
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2 Q Can you describe the inside of that tavern for
3 us?

4 A It's a regular small tavern. It has a bar that
5 stretches most of one wall and it has some type of bowling
6 pin machine in it, I would imagine for the customers'
7 amusement. It has like a side room that is partially
8 enclosed. If you -- walking in the door, it's on the left
9 side, after you make a right turn.

10 Q Does it have a billiard table?

11 MR. DIRENZO: Objected to, your Honor.

12 A I have never seen it.

13 THE COURT: Sustained.

14 Q Did you meet anyone at that tavern?

15 A Chester, Jack and I'm not sure about anybody
16 else.

17 Q And did you have a conversation that night?

18 A Yes, I did.

19 Q Would you tell us who was present at that conver-
20 sation and what was said, and who said it, if you can recall?

21 A The only people that I am positive was there was
22 Chester and Jack. I told Chester that we had to -- well,
23 Chester already knew that we were coming back to D.C. because
24 I had some business to take care of there, and he asked me
25 would there be anything I needed when I came back up to New

York that next week.

I told them that I wanted some handcuffs, another pistol, and a bottle of chloroform.

Q Was anything else said?

A Jack told me he would get the chloroform and Chester said he'd see me Monday.

Q I'm sorry, Chester said what?

A He would see me Monday.

Q And did you go anyplace from there?

A I came back to D.C.

Q Now, would you tell us where your car was at that time?

A I had left my car at the Ramada Inn parking lot. Chester was supposed to pick it up that Saturday and take it to a Cadillac dealer to have some minor work done on it.

Q Now, after you returned to Washington, did you speak to Chester?

A Yes. Chester called me several times on Saturday to make sure that we were coming back up, and I believe he called me once or twice on Sunday.

Q Now, while you were in Washington, did you meet with a man named Harry Johnson?

A Yes, I did.

Q Was there anyone with you when you met with him?

1 A He was introduced to me by Geoffrey.

2 Q Can you tell us when you met with him?

3 A I can't tell you the day. It was either
4 Saturday or Sunday, but I am not sure.

5 Q Do you remember where you met him?

6 A I believe it was at my apartment.

7 Q When you met with Harry Johnson, was there a
8 conversation?

9 A Geoffrey told me that he wanted to bring Harry
10 back to New York with us and that --

11 MR. DIRENZO: Objected to, your Honor.

12 THE COURT: Why?

13 MR. DIRENZO: Conversation. Was there a conver-
14 sation? I take it it calls for a yes or no answer.

15 THE COURT: I assume the next question is, what
16 did they say. Is that what you are asking, Mr. Kenney?

17 MR. KENNEY: May I put the question, your Honor?

18 THE COURT: Yes.

19 Q What was said?

20 A Well, as I was stating, Geoffrey said that him
21 and Harry were trying to come to a business agreement con-
22 cerning some type of business that Harry was trying to get
23 in, and that he wanted Harry to come back to New York with
24 us. He didn't quite state what for, and I didn't ask him,
25

but I told him it was all right with me.

Q Now, did there come a time when you returned to New York?

A Yes, we did.

Q And when was that?

A I believe it would have been that Monday night.

Q And can you tell us how you returned to New York?

A We came in Geoffrey's car.

Q And was there anyone in the car besides yourself and Geoffrey?

A Harry Johnson.

Q When you reached New York, where did you go?

A Let's see. We went to the same part of Brooklyn that I had been in previously. I think it's called Williamsburg.

(Continued on page 596.)

Q What time of day was it?

A I don't know what time of day it was. It was pretty late, though; it was evening.

Q Did you meet anyone there?

A Chester Crawford.

Q After you met Chester Crawford there, did you go any place?

A We drove around with him for a little while. He talked to Harry concerning some odd business or something -- I'm not quite sure -- and then he checked us into a motel.

Q What motel is that?

A I can't remember now.

Q Do you know where it was?

A I believe it was on Queens Boulevard.

Q What time of night was it when you checked into the motel, if you can recall?

A I can't recall. About 10:00 o'clock.

Q Can you tell us who stayed in it?

A Geoffrey, Harry and myself.

Q Did Chester stay at the motel?

A No, he didn't.

Q Now, the next day, on Tuesday, the 27th, did you meet with Chester?

A Yes, I did.

Q What time of day did you meet with him?

A It was early in the morning; I would say about 10:00, 11:00 o'clock.

Q Was anyone else present when you met with him?

A Geoffrey, Harry and myself.

Q Did you go anyplace?

A Yes, we did.

Q Where did you go?

A First we went to pick up my car from the parking lot, and then Chester just went driving almost aimlessly, but the only part of New York I remember him going was upper Harlem.

MR. MARTIN: May we have the date fixed?

MR. DIRENZO: The 27th.

Q Now, did there come a time when you met with someone else that day?

A That would have been later on that evening, or, I should say, afternoon.

Q Did you do anything between the time you started driving around with Chester and the time you met with someone else later that afternoon in relation to this case?

A No. We discussed it haphazardly, but everything was more or less worked out. So nothing important

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was really said.

Q Who did you meet with later that afternoon?

A Later that afternoon we went down by, I think it is right off of South Street, and we met Mike and Jack.

Q Where is South Street? Do you know?

A All I know, it's right off the Wall Street district on the elevator highway. I don't know too much about that.

Q Where did you meet Mike and Jack?

A This was on a corner across from another bar or something.

Q Do you remember the name of that bar?

A No, I don't.

Q You say you met Mike and Jack. Did you meet them on the street or in a car? How did you meet them?

A They were in the same car I seen them in previously.

Q Were you in this car or were you in another car?

A I believe I was in Chester's car.

Q Did Mike or Jack say anything on that occasion that you could remember?

A They didn't have too much to say to me.

Q Did you hear anything that was said by either Mike or Jack?

A No, I didn't.

Q Did you hear anything that was said by Chester?

A No, I didn't.

Q Now, was there anyone else with you and Chester at this time?

A Geoffrey and Harry.

Q Were they in the same car you were in?

A Yes, they were.

Q After you met with Mike --

MR. MARTIN: If your Honor please, may I ask the Court to instruct the United States Attorney it is not necessary to keep repeating and repeating the answers. I think it is prejudicial. I would like to move for a mistrial at this point.

THE COURT: Denied.

MR. KENNEY: I accept your suggestion, Mr. Martin.

MR. MARTIN: Thank you.

Q After that meeting did you go any place?

MR. DIRENZO: I object to the characterization of it as a meeting, your Honor.

THE COURT: Overruled.

A Well, after Chester's discussion we stayed with him a little while longer, but we ended back up at the Met

Motel.

Q You went back to the Met Motel?

A Right.

Q Did you do anything else on that day in connection with this case?

A No.

Q Directing your attention to the next day, which would be Wednesday, did you do anything on that day?

A Wednesday?

Q Let me withdraw that question and ask you if you met with Chester Crawford on that day.

MR. MARTIN: I'm going to object, if your Honor please.

THE COURT: Overruled.

A Yes, I did.

Q What time of day did you meet with him?

A Early that morning.

Q Was anyone with you when you met with him?

A Geoffrey and Harry.

Q When you met on that day, on Wednesday, 1 you go any place?

A Yes, we did.

Q Where did you go?

A We went through the same routine, driving al-

most aimlessly, I would say, and we ended up at a delicatessen.

Q Do you know where that was?

A All I remember is the name. It was called Katz.

Q Did you meet anyone at Katz' Delicatessen?

A Yes, we did.

Q What time of day did you get to the delicatessen?

A I would say about 3:00, 3:30, 4:00 o'clock in the afternoon.

Q Who did you meet there?

A I met Tommy and Mika.

Q What did you do at Katz' Delicatessen?

A Well, everybody ate and everybody was more or less asking everybody else were they ready to take this truck.

Q Was there any other conversation there, that you remember?

A Not really.

Q Now, would you tell us again who met in Katz' delicatessen? Who was inside at the same table?

MR. DIFENSO: I object to the form of that question.

THE COURT: He has given the names of the people who were there.

Q Did you go any place when you left Katz' delicatessen?

A Yes, we did.

Q Where did you go?

A We came down by the same area that the truck would have been on.

Q Were you in a car?

A Yes, I was.

Q Who was in the car with you?

A Chester, Geoffrey and Harry and myself.

Q What did you do when you reached that area?

A We just more or less looked over the area because we were not going to do anything that day because Jack had not shown up.

Q Did you see Mike or Tommy again that afternoon?

A That afternoon? Not after we left the area down by the post office, no.

Q Now, after you drove around the area of South Street did you go any place?

A Yes, we were driving with Chester. I told him-- I was kind of mad about Jack not showing up -- and I told him I had to come back to D.C. to renew my tags, and also Geoffrey had to come back, and I didn't want to get caught up in New York not being able to drive the car home.

Q Tell the jury what you mean by your tags.

A Well, the D.C. tags would have expired the 20th, and the last day I would have been able to get them would be that Friday. So if I had to stay up the weekend I would not be able to drive my car back on the highway.

Q The tags you are referring to are the license plates on your car?

A Right.

Q I believe the question I asked you is, on Wednesday, after you had been driving around the South Street area, did you go any place?

A We came back over to New Jersey.

Q Where did you go in New Jersey?

A This was late at night.

Q How much later? What time was it that you can recall?

A I would say about 10:00 or 11:00 o'clock.

Q Did you do anything with regard to this case between the time you drove around the South Street area and 10:00 or 11:00 o'clock when you went to New Jersey?

A No.

Q Where did you go in New Jersey?

A Back to the same tavern that I had been at previously.

Q By the way, do you know the name of that tavern?

A No, I don't.

Q When you reached that tavern did you meet anyone there?

A Yes, I did.

Q Who did you meet there?

A Jack, Tomay, and Mike.

Q Who was with you when you went in the tavern?

A Chester, myself, Geoffrey.

Q Did you have a conversation in the tavern that night?

A I had a conversation with Chester.

Q Was that conversation related to this case?

A No.

Q Did you have a conversation with anyone else?

A No.

Q Did there come a time when you left that tavern that night?

A Yes, there did.

Q Where did you go when you left?

A We came back to the Met Motel, and Geoffrey and Harry. And early that morning I caught a train back to D.C., about 3:00 or 4:00 o'clock in the morning.

Q The morning of what day?

A It would be the morning of Thursday.

MR. MARTIN: May we have the date established, please?

MR. KENNEDY: I believe Thursday would be March 28.

Q Did you return to New York?

A Yes, I did.

Q When did you return to New York?

A Late Thursday night.

Q When you returned to New York did you meet with anyone?

A Chester, Harry and Geoffrey picked me up at the airport.

Q Will you tell us what the purpose of that trip to Washington was.

A Chester had given me enough money to pay for my tags and Geoffrey's tags, and so I went down there before the deadline so in that way I could stay in New York.

Q After you met at the airport where did you go?

A Chester drove us some place in New York to meet Jack, Tommy, Mike, and some young man. Do you know the young man's name?

A No, I don't.

Q Can you tell us where that meeting was?

A No, I can't.

Q Was it in a building or on the street?

A It was on the street.

Q Were you in a car or standing on the street?

A I was in Chester's car.

Q Do you see that young man in the courtroom?

A No.

Q Did you have a conversation during that meeting?

A I talked to Chester.

Q Was that conversation related to the facts of this case?

A No.

Q Did you talk to anyone else at that meeting?

A It would have been just general conversation. It wouldn't have been about anything.

Q After you had that meeting did you do anything?

A Yes, we did.

Q Would you tell us what you did?

A We drove all the way through New Jersey and I believe some place in Pennsylvania, but I don't know where it was. All I remember is we stopped at two trucking stops.

Q When you say "we" drove, will you tell us who

was in the car with you?

A In the car with me was Chester, Harry and Geoffrey and myself.

Q Did any other cars go along with you?

A Yes.

Q How many?

A There were two other cars.

Q Could you tell us what type cars the other two cars were?

A One was a station wagon and the other one was, I believe it was a Chevrolet.

Q What year was the station wagon, if you know?

A I don't know.

Q Could you tell us whether it was new or old?

A I would say relatively old.

Q Could you tell us who was in the station wagon?

A Alke and this young man I was talking about.

Q Who was in the other car?

A Fanny and Jack.

Q Now, did there come a time when you drove back to New York from this place in Pennsylvania?

A Yes, we did.

Q How many cars drove back?

A Two.

Q Which cars drove back?

A The Chevrolet and Chester's Plymouth.

Q Where was the station wagon.

A It was left. I still don't know where they left it.

Q Did you have a conversation with anyone about the station wagon before it was left?

A Yes, Chester talked to me about it.

Q What did Chester say to you and what did you say to him?

MR. DARENZO: Objected to, your Honor.

THE COURT: Overruled.

A Chester told me that Mike had said he thought he was being followed, so he had to ditch the car.

Q After you returned to New York, where did you go?

A We went back to the Met Motel.

Q Who are "we"?

A Myself, Geoffrey Mann and Harry Johnson.

Q What did you do at the Met Motel?

A We went to sleep.

Q What time of day was that?

A This would have been about 6:00 o'clock in the morning.

Q Can you tell us what day of the week that was?

A That would have been Friday morning.

Q When you woke up did you meet with anyone?

A Yes, we woke up about 12:00 o'clock, maybe 12:30, and Chester came and picked us up again.

Q Did you go any place?

A Yes, we did.

Q Where did you go?

A Again Chester drove around aimlessly until about 3:00 o'clock, 3:30, and again we met at Katz' Delicatessen.

Q Who was with you and Chester?

A Harry Johnson and Geoffrey Mann.

Q When you got to Katz' did you go inside?

A Yes, we did.

Q Did Chester and Harry and Geoffrey Mann go inside?

A Yes, they did.

Q When you went inside, did you meet anyone?

A Yes, I did.

Q Who did you meet?

A Tommy, Mike and Jack.

Q Did you have a conversation at Katz'?

A Yes, I did.

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Q Will you tell us to the best of your recollection what was said?

A Well, I talked to Mike and Tommy. Mike had told me he had a van and that we were going to use the van instead of a car for the guard and the driver.

I believe previously -- I can't remember exactly when -- Jack had given us some ether, so I had that, and everybody was there.

So Tommy asked whether they were set, were they ready to go.

Q Was anything else said while you were at Katz's?

A Just general conversation.

Q Did you leave Katz's?

A Yes, we did.

Q Whom did you leave with?

A I left with Mike. Geoffrey and I left with Mike.

Q Did you go on foot or in a car?

A We were in a van.

Q You went in a van?

A Yes.

Q Could you describe the van for us?

A It is like an enclosed pick-up truck.

Q Do you recall the color?

A Dingy gray.

Q Where did you go in the van?

A We parked down on South Street about two or three blocks from where the postal truck made it's second stop.

Q After you parked there did anything happen?

A Chester parked in like a made-up parking lot. Tommy parked approximately the same place, and we waited for the mail truck to come to this postal stop.

Q Did the mail truck come?

A Yes, it did.

Q When the mail truck came, will you tell us what you did?

A When we saw the mail truck pull into the post office, Chester took myself and Geoffrey to a designated spot by a small triangle where we were going to accost the truck. I believe -- I don't know exactly where he went, but he was supposed to come back to the same parking lot. And Mike pulled up a half a block in front of the post office.

(Continued on page 612.)

Q And would you tell us what happened then?

A About ten, twelve minutes later, I saw Mike come around the corner in a van, and the post office truck was behind him. Chester was behind the postal truck.

Q Did you do anything else?

A I waited till Mike got to a stop sign on the street that I was in, and the post office truck was behind him, and when the post office truck came to a stop, I got ready to get on it, but I couldn't.

Q When you say you couldn't, could you tell us why?

A Exactly where the post office truck stopped, parallel to it was a car with an old couple in it, and at the same time that the post office truck pulled up they got out of the car. So I had to call everything off.

Q Would you tell us what happened after you did not get on the mail truck?

A Well, Chester and Harry had seen the people get out of the car, so they know why I stopped. Mike drove someplace down to some docks. Chester picked myself and Geoffrey up. We drove, not behind him, but we found him and met him, and also Tommy came to the same spot.

Q When you reached that spot, was there a conversation?

A Yes, I told Mike and Tommy what had happened, and why I didn't take the truck, and they said they knew, the understood, that we would try again Monday.

Q Now, when you were standing by the truck, and the people got out of the car, did you have a gun with you at that time?

A Yes, I did.

Q Where did you get that gun?

A I got that gun from Chester.

Q When did you get that gun from Chester?

A Well, I got the gun like, say, a half-hour, forty minutes before everything, you know, took off.

Q And did you see where Chester got the gun?

A Yes, I did.

Q Where did he get it?

A He got it out of Mike's or Jack's car. I don't know who the car belongs to.

Q After the conversation with Tommy and Mike, did you go anywhere?

A Yes, I did.

Q Where did you go?

A I came back to D.C.

Q How did you get back to Washington?

A I came with my car.

Q Did anyone go with you?

A Harry Johnson and Geoffrey Mann.

Q After you returned to Washington, did you speak to Chester?

A I spoke to him on Saturday and Sunday.

Q And how did you speak to him, on the telephone or in person?

A On the telephone.

Q And can you tell us the substance of those telephone conversations?

A He just asked me was I sure that I was going to get back up that following Monday, because I told him I had to get my car tuned up before I came back up, and just other general conversations, was everything still straight; things like that.

Q Did there come a time when you returned to New York?

A Yes, we did.

Q And can you tell us when that was?

A That would have been late Monday night.

Q How did you return to New York, do you recall?

A I came with my car.

Q Did anybody come with you?

A Geoffrey Mann and Harry Johnson.

Q When you came up that night where did you go?

A We didn't find Chester that night, so we checked into the Met Motel.

Q Did you speak to Chester that night?

A I didn't speak to him. I left messages at two numbers he had given me.

Q Did you speak to Chester the next day?

A Yes, we did.

Q What day was that?

A I don't know the date.

Q Did you meet with Chester that day?

A Yes, we did.

Q What time of day did you meet with him?

A It would have been early that morning.

Q Was there anyone with you when you met him?

A Harry Johnson and Geoffrey Mann.

Q After you met, did you go anyplace?

A Yes. We went with Chester and he started driving around again.

Q How long did you drive around?

A Most of the morning; part of the afternoon.

Q Did there come a time when you stopped driving around with him?

A Yes. We went to Katz' again.

Q And were you with Chester and Geoffrey, Harry, when they went to Katz'?

A Yes, I was.

Q And did you meet anyone at Katz'?

A I met Tommy, Mike and Jack.

Q Now, prior to going to Katz', had you gone anywhere without Chester and Geoffrey?

A Yes, I did.

Q Where did you go?

A I took my car down on Houston Street, the 500 block, and I parked it.

Q And did you go to see someone?

A Yes, I did.

Q And is that in relation to this case?

A No, it's not.

Q When you met at Katz', did you have a conversation?

A Well, there was very little to be said, but everybody just acknowledged that they was ready, you know, and they wanted to get this thing over with.

Q And did there come a time when you left Katz'?

A Yes, we did.

Q When you left Katz', who did you leave with?

A I left with Mike.

Q What time of day was this?

A I'd say about 5:00, 5:10 in the evening.

Q When you left with Mike, how did you leave, on foot or in an automobile or how?

A We went in the same van that he had Friday.

Q Where did you go?

A We went to the same spot on South Street that we'd been that previous Friday, to watch for the mail truck.

Q Would you tell us what happened after you reached that spot?

A We saw the truck come in again and Chester took me, myself and Geoffrey back up to the same spot that we were at that previous Friday, on this triangle, but there was a police car broken down in that immediate vicinity, so we came back to the car, and I told Chester, and we went to another spot, a second designated spot that we'd allowed for in case something else happened.

MR. KENNEY: Your Honor, may the witness go to the chart, Government Exhibit No. 2, to see if he can identify it?

THE COURT: Yes.

A (At chart) Chester took us to a spot approximately right here.

Q Now, do you recognize that chart?

A I saw it in your office before.

Q And does that chart accurately depict the area that you are talking about, as you understand it?

A Well, I don't know the names of the street, but the area looks right.

Q Could you step back just a little bit, and show us where you and Mike were in the van? I think perhaps if you stand to the right of the chart, we'd be able to see it a little better.

A We would have been approximately right here.

Q And did you know where Chester was?

A Chester was parked in this area right here.

Q And was there anyone in Chester's car with him?

A Harry Johnson.

Q Do you know where Tommy Carroll was?

A Not exactly. He was parked in the same area, though.

Q Did you see him that day in his car?

A Yes, I did.

Q Did you see him in that area?

A Yes, I did.

Q Was there anyone in his car?

A No, some young boy. I don't know his name.

Q Would you show us where you went when you saw the police car?

A When I saw the police car?

Q Yes.

A We were over in this area, and the car was broken down here, so we came back to the parking lot, and let them know what was going on, and then Chester drove us to this area here.

Q And did you get out of Chester's car when you reached that area?

MR. KENNEY: Your Honor, may the record reflect the area the witness is pointing to is the intersection of Beekman and Nassau Street, I believe.

THE COURT: That is right.

MR. MARTIN: May we have it marked, also, if your Honor please?

THE COURT: If you want to, mark it with an "A."

Mr. Kenney, they want it marked with an "A," the intersection of Beekman and Nassau Street. Do you have a marking pencil?

MR. KENNEY: Yes, your Honor.

THE COURT: Would you put an "A" down there, please, Mr. Myers.

(Witness complies.)

MR. MARTIN: Your Honor, could we have a large "A" so they can read it?

THE COURT: What difference does it make?

MR. MARTIN: The jury is across the room.

THE COURT: They know Beekman and Nassau Street.

MR. MARTIN: Well, in relation to the other markings, I think it may be significant.

Q When you got out of Chester's car at that point, would you tell us what you did?

A I stayed on this side of the street, and Geoffrey Mann got on this side and we proceeded to walk back down -- I guess the name is Beekman Street.

Q And would you just go ahead and tell us, the best you can recall, just exactly what happened?

A We saw Mike make the turn here, and come up --

THE COURT: "Make the turn here," you mean from Gold Street into Beekman Street?

THE WITNESS: Yes, sir.

MR. MARTIN: If your Honor please, I would like the Court to ask him to point. I think he pointed at William Street.

THE COURT: I think he pointed at Gold Street into Beekman Street, and he said yes in answer to my

question.

Go ahead, Mr. Witness.

MR. MARTIN: If your Honor please, at this point I'd like it clarified, for the record, or a record made as to exactly what he said and where he pointed to at that time. It's my indication where he pointed that he pointed at William Street.

THE COURT: I'm sorry, he pointed to Gold and Beekman, and I asked the witness was I right and he said yes.

MR. MARTIN: Could we ask him again for purposes of clarification?

THE COURT: No.

MR. MARTIN: I'd like to move for a mistrial.

THE COURT: Denied.

Q Mr. Myers, would you tell us what you did after you saw Mike in the truck?

A Well, Mike was coming up to where we were standing and we started walking back down the street this way toward him. We came right behind Mike, approximately here; the post office truck was behind him.

THE COURT: And that is at William Street and Beekman; is that correct?

MR. MARTIN: I'd like if the witness knows, if

your Honor please.

THE COURT: I put a question to him. Don't you listen to me?

MR. MARTIN: I'd like to elicit an answer.

THE COURT: What is your answer to the question?

THE WITNESS: I don't know the name of any of the streets.

THE COURT: He doesn't know the name.

Q Would you continue to tell us what you did from that point on?

A When Mike stopped the van here, the post office truck stopped behind him.

THE COURT: Pardon me. Where the witness is putting his finger and when he says he doesn't know the street, the map says William Street.

Go ahead.

MR. MARTIN: It does now, if your Honor please, at this point in the record, but it was my opinion before that he was coming up the other street. This is the reason I was making the record when he first pointed to it.

After your Honor's colloquy, it does --

THE COURT: You may be seated, Mr. Martin.

MR. MARTIN: Thank you.

THE COURT: Go ahead.

A The post office truck stopped right behind the van that Mike was in, and I jumped up on the cab, on the guard's side.

Q And what did you do?

A Well, I proceeded to open the door, because I had been previously told that the door would be open, but it was locked, and also I was told that the window would be open, but it was --

MR. DIRENZO: Objected to.

THE COURT: Objected to what?

MR. DIRENZO: "I was told."

THE COURT: Who told you, Mr. Myers?

THE WITNESS: Chester Crawford.

THE COURT: Chester Crawford.

Objection overruled.

Q Can you tell us what you did?

A The window of the cab door was cracked about four inches, so I switched my gun from my left hand to my right hand and I slid it in past the guard to the driver. I told him to freeze. At the same time, the guard made a sudden move and tried to slap at the gun or grab the gun -- I don't know quite what he was doing -- but when he slapped at it, it went off and hit him in his

neck.

962a

Q And after the gun went off, what did you do?

A I dropped my pistol down on my little finger and I took my thumb and opened the cab from inside.

Q What did you do at that point?

A I looked at the guard, to see what was wrong with him.

Q Did you do anything else?

A Well, at the same time, there was some commotion on the other side of the cab and I heard some shots, and also at the same time, and all of this was happening in a distance of maybe two seconds, I saw Mike pull off in the van.

Q Did you do anything after you saw Mike's truck pull off?

A Yes, I chased him down.

Q Chased after the van?

A Right.

Q Can you show us on the map where the van went?

A The van went here, and made a right, and then it came to this corner and made another right, and I would imagine this is the street it was coming down.

MR. KENNEY: May the record reflect, your Honor, the witness is indicating the van went west on Beekman

1
2 Street and up Nassau Street, made a right on Spruce
3 Street.

4 THE COURT: Yes.

5 Q Did there come a point in time when you caught
6 up with the van?

7 A Yes, I caught up with him someplace in this
8 area, here.

9 MR. KENNEY: Indicating Spruce Street, east of
10 the intersection of Gold Street.

11 Q And when you caught up with the van, what part
12 of the van did you catch up to?

13 A The back.

14 Q What did you do when you caught up to it?

15 A I jumped up in the back of it from --

16 Q Was the back open at that point?

17 A It wasn't locked.

18 As I was running, and it was moving, I caught
19 the latch, and I opened it.

20 Q After you opened the van, what did you do?

21 A I got inside, went to the front and I told Mike
22 to stop the truck for Geoffrey.

23 Q Where was Geoffrey at this point?

24 A He was about, he was in this area, in this area
25 here, running, but he was about a half-block behind the

van.

MR. KENNEY: Indicating Spruce and Nassau Street intersection.

Q And what did Mike say to you?

A He didn't say anything, kept driving.

Q How fast were you going at this point?

A I couldn't tell you.

Q And did you do or say anything else?

A I told him about three or four times, I shouted at him, more or less demanded that he stop the van for Geoffrey.

Q And did Mike say anything?

A He stopped.

Q Did you do anything else before he stopped?

A I had pulled my gun out and cocked the firing pin.

Q When you did that, did you say anything?

A I told him to stop.

Q After he stopped the van, did Geoffrey catch up to it?

A Yes, he did.

Q Did he get inside?

A Yes, he did.

Q And would you tell us where you went after you

and Geoffrey were in the van with Mike McCloskey?

A I don't know how we got there. I can't tell you the route. But we ended back up on South Street, and from South Street we went to some highway called FDR, whatever that stand for.

MR. KENNEY: Your Honor, I think the witness could return to the witness stand at this point.

THE COURT: All right.

Q Now, after you reached FDR, would you describe to us what FDR is?

A It's like an expressway or a highway.

Q After you reached that point, did you go anywhere?

A We went to an exit that must have been right off of Houston Street because it was near where my car was parked.

Q After you got off near Houston Street, what did you do?

A Mike parked the van at a corner and told us that he was going to walk up to Katz' delicatessen, for us to meet him there.

I went to pick up my car, and I changed my clothes in the seat of my car, and Geoffrey went over to like a baseball field or football field and disposed

of his weapon.

Q And what did you do with your gun?

A I kept it.

Q Can you tell us where you got the gun you had that day?

A From Chester.

Q Do you know where Chester got it from?

A Out of either Mike's or Jack's car. I still don't know who the car belongs to.

Q Did you see Chester do that?

A Yes, I did.

Q And do you know where --

MR. KENNEY: Withdraw that question, your Honor.

Q After you changed your clothes in your car, did you then meet with Geoffrey?

A Yes, I drove up to Katz' where he had walked, and he was making a phone call, and I waited outside, across the street, for him.

Q And did you then leave Katz'?

A Yes, we did.

Q And where did you go from that point?

A We came back over to New Jersey, at this same tavern we'd been in previously.

Q And how did you locate that tavern?

A Well, I'd remembered one bridge, I don't know the name of it, that we had crossed twice to get there, and after I crossed that bridge, I asked a truck driver how to get to Route 1. After I got to Route 1, I more or less found my way there.

Q Now, when you found that tavern, what time of day was it?

A This was in the evening. I'd say about 8:00 o'clock.

Q Did you say about 8:00 o'clock?

A I believe so. I'm not sure.

Q And when you reached the tavern, did you go inside?

A Yes, I did.

Q And did anyone go in with you?

A No.

Q Did you meet anyone inside?

A Yes, I did.

Q Who did you meet?

A I met Tommy.

Q Was there anyone else in there at that time?

A Not at that time, no.

Q Did you have a conversation with Tommy?

A Yes, I did.

Q Would you tell us what you said to him and what he said to you?

MR. MARTIN: Objection, your Honor.

THE COURT: Overruled.

A Well, first I asked him, where was he because he was supposed to have been behind the truck. He told me he had got lost in traffic, and I asked him where was Chester, because Chester was supposed to round the corner and come up behind him as close as possible.

He said he didn't know.

I asked him where Mike was. He said he didn't know where Mike was.

I asked him where Jack was. He said he didn't know where nobody was and asked me what happened.

So I said, "Well, man, that information you gave me was pretty foul."

He said, "What do you mean?"

I said, "Well, the guard didn't know what was going on."

I said, "The door wasn't unlocked and the window wasn't down."

So he told me that they must have changed guards.

Q Now, was anything else said in that conversation with Tommy Carroll?

A He more or less started talking about Chester and we got on the subject of where he was, because during this time, Jack and Mike had come into the bar and they were at the bar, and Tommy proceeded to call Chester, I guess he was calling Chester -- he said he was calling Chester's house, trying to find him.

Q Now, after Jack and Mike came into the bar, was there any conversation to which they were a party?

A Well, I didn't say anything to Jack because I didn't know where he had disappeared to. He was supposed to have been on the van with Mike. I don't know where he went.

And Mike proceeded -- I asked Mike, I said, "Why did you pull off? Why did you leave us like that?"

He said he thought we was going to catch the subway.

I told him, "I don't ever know what a subway looked like."

Q Was there any further conversation?

A Most of the conversation centered around Chester.

Q When did there come a time when you left that tavern?

A Yes. We left that tavern and went to another one.

Q What time did you do that, if you know?

A I'm only guessing, but I'd say about 9:00 o'clock, 9:15.

Q And how far away was this second tavern?

A About a four or five minute drive.

Q Did you drive there?

A Yes, I did.

Q You testified that you went into the tavern, the first tavern. When you went to the tavern, was there anyone with you in your car?

A Yes, there was.

Q Who was in your car with you?

A Harry Johnson and Geoffrey Mann.

Q And did they remain outside the entire time you were in the first tavern?

A No, they didn't.

Q Did they go inside?

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I'd say about ten minutes after I came in.

Q Now, when you went to the second tavern, can you tell us who was there?

A Everybody that was in the first tavern went to the second tavern, and Frank had told me he had gotten Chester on the telephone and that he would meet us there.

Q Did you see Chester in the second tavern?

A He arrived there about an hour later.

MR. DIRENIO: I object to all of this testimony as well, your Honor, on the ground that it is after the termination of the alleged operation.

THE COURT: I have already ruled on that.

Mr. Director,

Q The question is, did you see Chester Crawford in the second tavern?

A He came there about an hour after we arrived there.

Q After he arrived, was there conversation?

Q Not between me and him, no.

Q Was there anything said about the second tavern
by Tommy Carroll or Mike McCloskey that you can recall?

A I remember Tommy making one statement.

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Q What was that?

A He told me that Chester went on and picked up his wife and kids.

Q Was anything else said that you can recall?

A No.

Q Where did you stay that night?

A We stayed at a motel off a highway in New Jersey, I had never been there before. This was a new one. Chester had picked this.

Q And prior to leaving the second tavern, did you receive any money?

A Yes, I did.

Q Who did you receive the money from?

A Chester Crawford.

Q While you were in the second tavern did you see Carroll do anything?

A I saw him cash a check.

Q Do you know how much the check was for?

A No, I don't.

Q Did you drink anything when you were at the second tavern?

A Yes, I did.

Q And did you eat anything?

A I think I ate a sandwich or something. It

wasn't too much.

Q Who stayed at the motel with you that night?

A Geoffrey Mann, Harry Johnson and myself.

Q And on the next day, can you tell us what you did?

A Well, we were waiting for Chester to pick us up, but he never came.

Q Did you do anything?

A We called both of his numbers, but we didn't get him.

Q Did you go any place?

A Well, you know, things sort of started falling in place as far as what had happened and I knew more or less that we had been set up, so I told Geoffrey, I said, "Man, the best thing we can do is get out of New York."

So we came back to D.C.

Q After you returned to Washington, did you talk to Chester?

A This would have been a week and a half, maybe two weeks later.

Q And did you talk to him in person or on the telephone?

A On the telephone.

Q And how many times after that did you talk to him on the telephone?

A Once, maybe twice more.

Q What was the substance of those conversations?

A The first conversation was we mad and how did we feel about what happened and it was not his fault, more or less conversation like that.

The second time he talked to me he told me in his own way that the postal inspectors had a post-out on us.

MR. DIRENZO: Objection.

THE COURT: Sustained. I will strike the answer of the witness. The jury is instructed to disregard it.

Q Now, Mr. Myers, you testified that in Katz', on a trip to Pennsylvania, and on a corner near South Street, on three separate occasions you saw a young man. Can you tell us --

MR. HOPPER: I object.

THE COURT: Sustained.

Q Can you tell us --

THE COURT: I sustained the objection.

MR. KENNEY: May we pursue this line of questioning?

THE COURT: You have already done it and received a negative answer.

MR. KENNEY: May we approach the bench?

THE COURT: You may.

(At the bench.)

MR. KENNEY: We are entitled to ask this witness whether that person was the same person or not each of those three times.

MR. HOPPER: There were only two, to begin with.

THE COURT: Two I only recall. He didn't mention Katz'.

MR. KENNEY: One Katz' he mentioned.

MR. HOPPER: Not with the young man.

THE COURT: I think so.

MR. KENNEY: I will just ask him on the occasions that he testified he saw a young man, can he tell us whether it was the same person.

THE COURT: Yes. I think he indicated that, but I will allow it.

(In open court.)

BY MR. KENNEY:

Q Mr. Myers, on those occasions where you indicated that you saw a young man, can you tell us whether that person is the same person on all those occasions?

A Yes, it was.

Q Mr. Myers, can you tell us how much money you received in the second tavern with Chester?

A At what time?

Q The night after the crime was committed.

1 A About 10 or 20 dollars.

2 Q Did you pay for the motel room?

3 A No, I didn't.

4 Q Do you know who did?

5 A Chester said he did.

6 Q I show you government's Exhibits 8 through 12
7 and ask you to look at each.

8 THE COURT: For identification, I assume?

9 MR. KENNEY: For identification.

10 Q I ask you to look at each of those carefully.
11 Can you identify those exhibits?

12 A Yes, I can.

13 Q Can you tell us how you can identify them?

14 A They all have my signature on them.

15 Q Is each one signed in your own name?

16 A All except one.

17 Q How can you identify that one?

18 A Well, I remember using the name, plus it is my
19 handwriting.

20 Q Can you tell us what Exhibit 8 for identification
21 is?

22 MR. MARTIN: Your Honor, may we inspect them
23 first?

24 THE COURT: You can ask him to identify them with
25

1 out giving the contents.

2 THE WITNESS: This is a check-in card.

3 MR. DILORENZO: Object to the characterization.
4 your Honor.

5 THE COURT: Overruled.

6 A This is a check-in card for the Holiday Inn.

7 THE COURT: That is sufficient for that.

8 Show it to the defendants. That is 8?

9 MR. KENNEY: That is correct, your Honor.

10 May I proceed with the others?

11 THE COURT: Not while they are looking at this
12 one. Perhaps --

13 MR. KENNEY: Perhaps if I show all the exhibits
14 at this time to defense counsel.

15 THE COURT: If you wish to do it in that way, you
16 may.

17 Q Myers, I show you Government's Exhibit 8 for
18 identification. Is there a date on that?

19 THE COURT: Is there any objection?

20 MR. MARTIN: I object.

21 THE COURT: On what ground?

22 MR. MARTIN: Hearsay and self-serving.

23 THE COURT: Denied.

24 A Yes, there is.

Q What is that date?

A March 20.

Q I Show you government's Exhibit No. 9 for identification and ask you if you can tell us what that is.

A This is a registration card from the Lincoln Tunnel Motel.

Q Is there a date on that?

A Yes, 3/21.

Q I show you Government's Exhibit 10 for identification and ask you if you can tell us what that is.

A This is a registration card for the Ramada Inn.

Q Is there a date on that card?

A March 22.

Q I show you Government's Exhibit 11 for identification and ask if you can tell us what that is.

A This is a registration --

MR. DIRENZO: Does the government represent these are 1973?

MR. KENNEY: I believe the dates so indicate, your Honor.

THE COURT: Exhibit 11 is what, Mr. Kenney?

MR. KENNEY: It is being identified.

THE WITNESS: This is also a registration card.

Q Do you know where it is from?

A No, I don't.

Q Does the name appear on it?

A No.

Q But your signature appears on it?

A Yes, it does.

Q Is there a date on it?

A It looks like March 27.

Q Does it have a year?

A No, it doesn't.

Q I show you Government's Exhibit 12 and I ask you the same question, can you tell us what that is?

A This is also a registration card. The date on it is April 4th. It has a time on it. Down here in the corner it has 4/4/73, but that is handwritten.

Q Now, can you compare Government's Exhibits 11 and 12?

A They are the same registration card.

Q Do you have any present recollection as to where you put your signature on these two cards, Government's Exhibits 11 and 12 for Identification?

A Yes, I do.

Q Where?

A At the Met Hotel.

THE COURT: Exhibits 8, 9, 10, 11 and 12 are

admitted in evidence.

(Government's Exhibits 8 through 12, inclusive, for identification, received in evidence.)

Q Mr. Myers, after you returned to Washington did you ever meet a man you testified about named Bobby again

A No, I didn't.

Q Is it your testimony that you cannot identify any one in the courtroom as the man you testified about as Bobby?

A That is right.

Q But you testified that you know Mr. Rippy? Is that right?

A Yes, I know him.

Q Is it true to say that you have come to know Mr. Rippy some time after this crime was committed and after you returned to Washington and then came back to New York?

A Right.

Q Can you tell us when you were arrested?

A I think it was June 5th.

Q That is this year, 1973?

A Right.

Q Since that time have you spoken to Chester Crawford?

A One time.

Q When was that?

1 A In the bullpen someplace in this building.

2 Q Does that mean here in the courthouse?

3 A YEs.

4 Q Down in the lock-up?

5 A Yes.

6 Q Have you ever been in the same cell as Chester
7 Crawford?

8 A No, not the same cell.

9 Q Have you ever been in the same cell with a man
10 named John Turner?

11 A No.

12 Q HAVE you ever been in the same cell with a man
13 you testified about named Jack?

14 A No.

15 Q Have you seen Jack since you returned to
16 Washington in April, 1973?

17 A Since I have been back to New York, yes.

18 Q Have you had occasion to speak to him?

19 A No.

20 Q How long was your conversation with Chester
21 Crawford in the bull pen?

22 A Quite short.

23 Q Did you talk about this case?

24 A Yes.

Q Did you talk about the facts of this case?

A No.

MR. KENNEY: I have no further questions.

THE COURT: It is now a quarter after 12:00, and as I have indicated with the other witnesses, in order to afford defense counsel an opportunity to confer, we will adjourn now for lunch and return here a quarter to two.

(Jurors and witness excused.)

THE COURT: Mr. Martin?

MR. MARTIN: Your Honor, I think Mr. Drenzo would like to say something.

MR. DRENZO: If it is agreeable to the Court, Mr. Martin asked me whether the Court and the prosecution or the defense counsel had any objection to him cross-examining this witness first. As far as I personally am concerned, I have no objection to it.

MR. HAFETZ: I have no objection.

MR. KENNEY: We have no objection.

THE COURT: Mr. Kenney, I think you have to arrange for better transportation of the witnesses and the defendants. We waited until 20 minutes to 11:00 today for your witness to come here. You can't afford to wait 45 minutes a day in this manner.

MR. KENNEY: I have requested each day, particul-

arly last night, that the marshals bring witnesses here,
and instructed them that Mr. Myers was going to be a witness.
I asked them to be here at 10:00 o'clock, and, in fact, it
may not surprise the Court to learn, I asked them to bring
him here a little before 10:00 o'clock so I could see him
myself before he testified.

I do not present it as an excuse. I will try to
get him here earlier.

THE COURT: Thank you.

(Luncheon recess taken.)

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AFTERNOON SESSION

1:50 p.m.

(In open court; jury present.)

TERRENCE DEWEY MYERS,
resumed.

THE COURT: You may proceed, Mr. Martin.

MR. MARTIN: Thank you, your Honor.

CROSS-EXAMINATION

BY MR. MARTIN:

Q Mr. Myers, is it your testimony that you accidentally shot and killed a man on April 5, 1973?

A Yes, it is.

Q And for this --

MR. MARTIN: Question withdrawn.

Q How much time have you spent in jail, Mr. Myers?

A About the last seven months.

Q And before that, have you done any time in jail?

A Yes, I have.

Q And how much time have you done?

A I'd say, on the whole, about twenty-five, twenty-six months.

Q About twenty-five, twenty-six months?

A Right.

Q And for how many different kinds of crimes was

that?

A Armed robbery, and I have a charge in Washington now, selling marijuana, but I haven't received a sentence on it yet.

Q And this armed robbery that you were talking about goes back some number of years, back into the '60's?

A I was a juvenile.

Q And you spent time in jail for that?

A Right.

Q And you are currently facing -- you pleaded guilty, as I understand it, to this indictment, to the charge of murder in the second degree?

A Right.

Q Is that correct? With the understanding that the other two charges would be dropped against you; is that correct?

A Right.

Q And that the charge of murder in the first degree with which you were originally charged would also be changed to murder in the second degree?

A Right.

Q And did you know prior to making this agreement with the Government that the penalty for murder in the first degree was a mandatory life sentence?

A Yes, I do.

Q And were you also aware that the penalty to the charge to which you pleaded, that is, murder in the second degree, is any term up to life; is that correct? Were you aware of that?

A I think that's right, yes.

Q So that you are aware that it's possible for taking your plea and for the Government to take into consideration your cooperation with them, both in testifying on this case and conceivably on other cases, that there is a possibility, and that the Judge has the power to give you no time for this; are you aware of that?

A I'm aware the Judge can do what he wants; if that's what you're trying to say.

Q So, it is possible that after you admitted that you accidentally killed a man, it is possible that you might walk away; isn't that correct?

A Anything is possible in a court of law.

Q And, to a large degree, this possibility depends on your cooperation with the Government?

A If it does, I have no knowledge of it.

Q Time in jail is rough time; it's difficult in jail, is it not?

A That depends on how you look at it.

Q But you'd rather be almost anyplace than in jail; isn't that correct?

A Quite naturally.

Q And you'd do almost anything to get out of jail, wouldn't you?

A No, I wouldn't.

Q What wouldn't you do to get out of jail?

A It depends on what basis you're putting the question to me.

Q I say you would cooperate and maybe tell a lie here or there if it meant getting out of jail?

A Well, you would have to tell me the lies that I'm telling. You would have to show me the lies that I'm telling.

Q But you can conceive of different lies that you might tell in order to avoid jail, can you not?

A When you use the word, "conceive," that's like an infinite thing, so you're not putting any limit on it. Until you put a limit on it, I don't understand the question.

Q As a matter of fact, Mr. Myers, you are now working for the Government in order to avoid jail, are you not?

A Well, if I am, I am unaware of it.

Q And this is after you admitted accidentally shooting a post office guard?

A Right.

Q Mr. Myers, this marijuana charge that you face in Washington, will you tell us the circumstances of that?

A I was convicted of a selling marijuana charge.

Q And what, in fact, did you do to be arrested on that charge?

MR. KENNEY: Objection; irrelevant.

THE COURT: Sustained.

Q Were you convicted -- what was the amount of marijuana involved?

A A half-ounce.

Q Were you convicted of selling it?

A Yes, I was.

Q And who were you convicted of selling it to?

A A policeman.

MR. KENNEY: Objection.

THE COURT: Sustained. It's immaterial who he was selling it to.

Q And for this did you receive the five-year term now, or are you facing it?

A I don't know how much time I'm going to get.
The maximum is five years for the charge.

Q I see. You haven't been sentenced on it yet.

A No, I haven't.

Q Do you use marijuana yourself?

A No, I don't.

Q Have you ever used marijuana?

A No, I haven't.

Q Have you ever used any drugs?

A No, I haven't.

Q Did you ever sell drugs aside from this
Washington thing that we'd spoken about before; at any other
time in your life did you ever sell drugs to anyone?

MR. KENNEY: Objection.

THE COURT: Sustained.

Q Have you committed any other robberies other
than the one you testified to this morning?

MR. KENNEY: Objection.

THE COURT: Sustained.

Q Have you committed any other crimes of any type
other than the ones you testified to?

MR. KENNEY: Objection.

THE COURT: Sustained.

Q You were arrested sometime in June of 1973?

1
2 A June the 5th.

3 Q And your testimony was that this incident
4 in which you say you accidentally killed the guard took
5 place on about April of 1973?

6 A The first week in April, yes.

7 Q During that period of time, from April of
8 1973 until you were arrested in June of 1973, can you
9 tell us where you were living?

10 A 135 Kennedy Street, North West, Apartment 207.

11 Q And that was in Washington?

12 A Yes, it is.

13 Q And did you at any time come back to New York
14 during that intervening period of time?

15 A No, I didn't.
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BY MR. MARTIN:

Q Did you at any time leave Washington, D. C. during that intervening period of time?

A I can't answer that one way or another. I frequently take trips into Maryland, because that is where my family lives. But I can't say whether I did or not.

Q You don't remember?

A No.

Q When you were arrested in June, where were you taken?

A I believe it was the main post office on J Street.

Q Were you arrested by the police or by post office inspectors?

A I think they were postal inspectors.

Q Where did they take you from? Your house?

A Right. From my apartment.

Q Did they then take you to the post office?

A Right.

Q Did they bring you to court or jail?

A In what sequence of events are you trying to put this in?

Q You tell me what happened.

MR. KENNEY: I am going to object to this line

of questioning.

THE COURT: I don't understand its relevance.

MR. MARTIN: I want to find out if he signed any statements or been interviewed by any other officers.

THE COURT: Ask him.

MR. MARTIN: I don't know what he did.

THE COURT: Ask him.

Q Can you tell me, from the time you were arrested, where you were taken and by whom you were taken that day?

A I was taken from my apartment by postal inspectors to the main post office on J Street Northwest.

Q And how long did you remain there?

MR. KENNEY: I'm going to object --

THE COURT: Ask him what statements he gave, instead of asking a lot of questions that are taking up time. Ask him, did he give any signed statements? To whom he gave them?

MR. MARTIN: I wouldn't know how to ask about this until --

THE COURT: Did you give any signed statements to anyone the day you were arrested?

THE WITNESS: That night.

THE COURT: Do you know to whom you gave it?

THE WITNESS: Yes.

THE COURT: Who?

THE WITNESS: Postal inspector.

THE COURT: DO you know his name?

THE WITNESS: No, I don't.

THE COURT: Now, you have got to answer.

Ask him directly.

Q What was the time you were arrested at?

A The time?

Q Yes.

A The afternoon.

Q And you gave a statement at night?

A Right.

Q Can you describe the statement that you gave?

A I believe it's the same one that the United States Attorney has.

MR. MARTIN: Can I see it, please?

Q Is that the statement?

A Yes, it is.

Q Can you tell me how many pages it consists of?

A You want me to count them or guess?

THE COURT: There may be a number on it. See if it is numbered.

THE WITNESS: I think it is 26.

THE COURT: 26 pages.

SOUTHERN DISTRICT COURT REPORTERS

UNITED STATES COURT HOUSE

FOLLEY SQUARE, N.Y., N.Y. 10007 TELEPHONE: CORTLAND 7-4580

1
2 P. KENNEY: May we have it marked for identifi-
3 cation, your Honor?

4 THE COURT: Yes.

5 (Defendant Vincent McCloskey's Exhibit C was
6 marked for identification.)

7 Q I show you the last page, marked page 27, and
8 ask if your signature appears on that page?

9 A Yes, it does.

10 Q Is the other writing in your handwriting that
11 appears on that last page, page 27?

12 A Yes, it does.

13 Q Can you read your handwriting on the last page?
14 Just the material that is in your handwriting.

15 A In my handwriting?

16 Q Yes, please.

17 A "I freely give this 27 page statement. No
18 threats or promises have been made to me. I have agreed to
19 delay my appearance before the United States Magistrate to
20 make this statement."

21 "Terrance Myer 6/8/'73."

22 Q Now, when you say you agree to make your appearance
23 before the Magistrate, can you tell us what happened when you
24 made that agreement?

25 A I talked to the postal inspectors

Q Is that postal inspector in the courtroom?

A No, he is not.

Q When did you last see him?

A This morning.

Q Your statement that you made, was what you told them true and accurate?

A As accurate as I could make it, yes.

Q Was that a full statement concerning the incidents involved in this case as you remember it?

A I don't know what you mean by full statement.

Q They were asking you about this case that we are now on trial with? Is that correct?

A Right.

Q Did you tell them as much as you remembered about this case that you are now on trial with?

A Right.

Q At that time it was to the best of your knowledge and to the best of your recollection?

A Right.

Q Anything you could have remembered you would have put it in there?

A Right.

Q Let me show you the statement and perhaps leave it with you up here for your reference.

Before we proceed with that, Mr. Myers, if you will, aside from that statement, that typewritten statement, did you sign any other paper at any time for either the postal inspectors or police officers or for any United States Attorneys or for anybody else from the time you were arrested until today concerning the facts of this case now on trial?

A I don't think so.

Q Did you at any time from the day you were arrested up until the present date testify before any group, agency, or people concerning the events regarding the case that is on trial today?

A The District Attorney.

Q When did you talk and testify before the United States Attorney?

THE COURT: You use the word "testify." Do you mean under oath?

THE WITNESS: No, I was not given any oath.

THE COURT: I am talking to Mr. Martin. He used the word "testify." The word "testify" connotes an oath.

Q Was it under oath, Mr. Myers?

A No.

Q Can you tell me when you spoke to the United States Attorney for the first time?

A I believe the first day I was in New York.

Q Excuse me?

A I believe the first day I was in New York.

Q Do you know when that was?

A No, I don't.

Q Can you approximate it by month?

A I would say about the third week in June. I'm not sure.

Q About the third week in June?

A Yes.

Q In other words, a couple of weeks after you were arrested?

A Yes.

Q How long did you talk with the United States Attorney at that time?

A I can't approximate, but it was a very short time.

Q Was the United States Attorney you spoke to Mr. Kenney?

A Yes, it was.

Q Were there any other United States Attorneys present at that time?

A I can't answer.

Q Do you know?

2 A There was somebody present. I know a postal
3 inspector was present; there was somebody else present; but
4 I don't know who that was.

5 Q And that postal inspector who was present, is
6 that the same postal inspector who took this statement and
7 whom you spoke with this morning?

8 A Well, there were several postal inspectors
9 present when this was given. I can't directly say yes or
10 no.

11 Q You wouldn't know? Did there come a timewhen
12 you had any other conversations with the United States
13 Attorney?

14 A Yes.

15 Q Can you approximate when they were?

16 A They had been at various times during my
17 incarceration. It was not regular. Whenever they called
18 me from the jail, wherever I was at.

19 Q When he called you would you come over to this
20 building?

21 A Yes.

22 Q Would you go to Mr. Kenney's office?

23 A Yes.

24 Q You would be questioned there by Mr. Kenney?

25 A Right.

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2 Q Can you approximate how many occasions this
3 happened during the period of your incarceration?

4 A I would say three or four.

5 Q During these questioning sessions starting with
6 the first one when you spoke with Mr. Kenney, at any time
7 were there any stenographers in the room taking down what
8 you were saying?

9 A No, there was not.

10 (Continued on page 662.)
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Q Were there any people in the room making notes of what you were saying?

A On a few occasions a postal inspector would be there; a Marshal would always be there; and I think he had an assistant there. What they were doing I can't say.

Q Did you yourself observe whether at any of these meetings anybody was sitting making notes?

A I can't say yes or no.

Q You wouldn't remember?

A I wouldn't remember.

Q covered June until now?

A Right.

Q When did you last speak with the United States attorney?

A When did I last speak with him?

Q Yes.

A During lunchtime.

Q During the lunch break?

A Yes.

Q How long did you speak with him at that time?

A About five minutes.

Q Were any notes taken during this period of time?

A No.

Q Before the lunch break, when did you speak with him, before, this morning, before you testified?

A I believe the day before yesterday.

Q You didn't speak to him all yesterday?

A I might have. I am not sure.

Q Before you took the stand?

A Before I took the stand, no, I didn't.

Q Did you speak to him this morning before testifying?

A No.

Q Did you speak to the postal inspector before testifying this morning?

A No, I didn't.

Q Did you speak with the postal inspector yesterday before you took the stand?

A No, I didn't.

Q Did anybody show you this statement that you had and ask you to read it over?

A No.

Q When was the last time you saw that statement?

A I would say in September, the last part of September.

Q Who gave it to you at that time?

A A copy of it was given to me by, I believe,

the district attorney.

Q By the United States attorney?

A I am not sure.

Q Do you have that copy with you?

A Do I have it with me now?

Q Did you have it with you when he gave it to you in September?

A Yes, I did, for about a week.

Q For how long?

A About a week.

Q Were you studying that over?

A No.

Q Did the United States attorney tell you to study it over?

A He told me to, yes.

Q Did the post office inspector tell you to study that over?

A No, he didn't.

Q This postal inspector you spoke with yesterday before testifying, which postal inspector was that?

A I didn't talk to any postal inspector yesterday.

Q You didn't?

A No, I didn't.

Q Did you ever speak to any FBI agents from the

time of your arrest to the present date?

A Not to my knowledge.

Q Did you ever speak to any New York City police-
men from the time of your arrest till the present date?

A I don't think so.

Q Did you ever speak to anybody from the Strike
Force from the date of your arrest until the present date?

A What?

Q A Strike Force?

A I don't ever know what that is.

Q When you were brought up to New York sometime
in June, you were brought before the Court and you were
arraigned or charged with the three counts in this indict-
ment, that is, the conspiracy, murder 1, and an assault
charge?

A Yes.

Q You appeared in this Court and you pleaded to
that indictment, did you not?

A Yes, I did.

Q You ... not guilty to that indictment?

A Yes, I did.

Q By pleading not guilty you were saying you
did not commit those crimes? Is that correct?

A Yes, I did.

Q Then there came a time on September 17 when you changed your mind in this court and you said you would plead guilty to the crime of murder 2 to cover all the charges in the indictment? Is that correct?

A That is right.

Q Between the period of time when you pleaded not guilty in June until September 17, to where you pleaded guilty to this reduced charge, did you have any conversations with the District Attorney concerning your taking of a plea to a reduced charge?

A I never had any conversation with Mr. Kenney concerning my taking a plea to a lesser charge. When I was informed about the murder 2 charge, I was told by my lawyer that this was offered to everybody with the same grounds, the same limitations, et cetera. Mr. Kenney said nothing to me; my lawyer did.

Q Isn't it a fact that you entered into a written agreement with Mr. Kenney?

A I signed the agreement to the murder 2 plea.

Q And that is an agreement other than this document that you signed?

A Yes, it is.

MR. MARTIN: May I have that.

MR. KENNEY: That has been marked Government's

Exhibit 6, your or.

MR. HAFETZ: May we approach the bench.

(At the bench.)

MR. HAFETZ: Judge, I don't know how to articulate this, but I think a prejudicial statement has been made in the sense that the witness has said that a murder 2 plea was offered to all defendants by the government. I think this connotes the government's evaluation.

THE COURT: I am sorry. Your co-counsel brought it on examination.

MR. HAFETZ: The government did not offer that plea to my client.

MR. HOPPER: Can I bring out the plea offer?

THE COURT: He brought it out.

MR. HOPPER: You would permit me to bring it out?

THE COURT: I will permit you to bring out it was not offered to you.

MR. MARTIN: He it.

THE COURT: I am sorry. got to be careful with the questions you put.

MR. HAFETZ: May we have the option of asking this witness whether this is a true statement, whether that was offered or some other plea was offered.

THE COURT: All he said is that his lawyer told him that that is what was being done. That is his statement.

MR. HAFSTZ: May I show that my client was not offered a murder 2, he was offered a conspiracy?

THE COURT: You can cross-examine him as to what his lawyer told him on it.

MR. HOPPER: But it is clear if I put my client on stand he can state what the offer was to him? The offer to him was conspiracy.

THE COURT: I won't take that. I will just let you negate this.

MR. HOPPER: How can I make it unless I show what the offer was?

THE COURT: Mr. Hopper, what I am saying is very clear. The witness has said that his attorney came to him and said "We were offering all of them a murder 2 plea. That is what he just testified to. You can ask your client, 'Were you offered a murder 2 plea?' That is my ruling. Now, let's go on."

(Continued on Page 669.)

(In open court.)

BY MR. MARTIN:

Q Mr. Myers, I show you this document marked Government's Exhibit 6, consisting of two pages, and ask if your signature appears on the middle of Page 2 on the left-hand side.

MR. KENNEY: The question has already been answered, your Honor?

THE COURT: He has done it already. If you want it again --

MR. MARTIN: I'm sorry. I didn't realize it.

A Yes, it is.

Q And did you sign that in the presence of the U. S. Attorney?

A I don't believe he was there. I think it was just my lawyer and myself.

MR. MARTIN: I'd like to offer this into evidence.

MR. KENNEY: No objection.

MR. DIRENZO: May I see it?

THE COURT: You have seen it already. Do you want to object to it?

MR. DIRENZO: I don't know if I do or not.

THE COURT: You don't recall having seen it?

1
2 MR. DIRENZO: I have seen it but I want to re-
3 evaluate it.

4 THE COURT: Sure.

5 (Pause.)

6 THE COURT: Is this an exact copy of the one
7 they had for Paul Crawford?

8 MR. DIRENZO: Yes, your Honor.

9 MR. HOPPER: I have no objection.

10 THE COURT: Mr. Hafetz, do you have any
11 objection?

12 MR. HAFETZ: No objection.

13 MR. DIRENZO: No objection.

14 (Government's Exhibit No. 6 for identification
15 is now Defendant's Exhibit D received in evidence.)

16 THE COURT: Go ahead.

17 Q Mr. Myers, this letter is addressed to your
18 attorney, this exhibit, and it reads as follows:

19 "Your client, Terrence Dewey Myers, has
20 indicated a desire to plead guilty to a second degree
21 murder, a crime punishable by a sentence of up to life
22 imprisonment in satisfaction of the indictment in the
23 above-entitled matter. The Government will agree to a
24 severance."

25 Did you know what a severance meant?

SOUTHERN DISTRICT COURT REPORTERS

UNITED STATES COURT HOUSE

FOLEY SQUARE N.Y. N.Y. 10007 TELEPHONE: CORTLAND 2-4330

1
2 A Yes, I do.

3 Q And what did it mean?

4 A It means that whatever legal actions are taken
5 toward me would be severed from the main trial.

6 Q In other words, you would be cut off from
7 the other defendants?

8 A Right.

9 Q "And that the Government will then accept such
10 a plea following the trial of the co-defendants, provided
11 Myers testifies fully and truthfully as a Government
12 witness at trial."

13 Were you aware of that?

14 A Yes, I was.

15 Q In other words, the chronology was to be that
16 you would be cut off from the other defendants, they would
17 proceed to trial, and then you would testify at that
18 trial, and if the Government felt that your testimony
19 was truthful, then you would be given the plea, is that
20 correct?

21 A Right.

22 Q And that was your understanding of that?

23 A Yes, it is.

24 Q And that was back in August of 1973?

25 A I believe so.

Q The letter goes on to say:

"As is our practice, we will consent to the dismissal of the open counts remaining in the indictment at the time of sentence and make known to the sentencing judge the extent of the cooperation offered and given by your client."

Were you aware of that?

A Yes, I was. I read the statement.

Q In other words, the Government would tell the Judge how well you cooperated with them in testifying against defendants who were brought to trial; is that your understanding of it?

MR. KENNEY: Objection. The letter speaks for itself.

THE COURT: True. The letter speaks for itself is the objection. The objection has been sustained.

Q Now, this was in August of 1973, is that correct? I ask you to look at it.

A The date is August the 30th.

Q August what, sir?

A August 30th.

Q Is it? Do you see the top of the letterhead?

A The top of the letterhead is August 28th.

SOUTHERN DISTRICT COURT REPORTERS

UNITED STATES COURT HOUSE

FINEY SQUARE N.Y. N.Y. 10007 TELEPHONE: CORTLAND 7-6800

Q Right.

Now, after that, you then come into Court later and pled guilty even without waiting to testify, isn't that correct?

A Right.

Q And that was on September 17, 1973?

A I don't know the date.

Q In this Court?

A Yes.

Q During the time that you first appeared in New York in June of 1973 up until today, you have had several occasions to see each of the defendants who are here in Court and charged with a crime?

A Yes, I have seen them in the bull pen.

Q You have also seen them in the courtroom, have you not?

A Yes, I have.

Q And you have also heard them all stand up and say, "My name is Vincent," or "My name is" this, and "My name is" that. You have heard and seen this in the courtroom?

A Yes, I have.

Q And how many times have you heard and seen them in the courtroom?

1
2 A I will say several.

3 Q Several.

4 A Right.

5 Q And you have also seen them, as you said, in
6 the bull pen on several occasions, have you not?

7 A Yes, I have.

8 Q And you have also seen them from adjoining
9 cells, have you not?

10 A Yes, I have.

11 Q While you were in the Court, and this is from
12 the time you have been up here in June until now, isn't
13 that correct?

14 A Yes, it is.

15 Q So you are not unfamiliar with these defendants.
16 You have been keeping company with them since June to
17 the present date, have you not?

18 THE COURT: Well, let's leave out the words,
19 "keeping company."

20 MR. MARTIN: Question withdrawn.

21 Q You have been in and out of their company?

22 A Yes, I have.

23 Q In Court, in the jail, in the hallways, on
24 many occasions during this period of time?

25 A Yes, I have.

Q And you have also spoken --

MR. MARTIN: I'm sorry; may I get a glass of water, please?

THE COURT: Yes.

(Pause.)

Q And you have also spoken to other people who were charged with this crime and who pleaded guilty to the same charge you pleaded guilty to; isn't that correct?

A One, yes.

Q And who was that?

A Geoffrey Mann.

Q How about Crawford?

A Which one?

Q Chester.

A I haven't discussed anything with him, no.

Q I didn't ask you if you discussed it. You had occasion to see him, have you not?

A I have seen him, yes.

Q And you have seen him in this courtroom on several occasions when the case was called?

A Yes.

Q And you have seen him in the jail on several occasions?

1 A Yes, I have.

2 Q And you have seen him in the bull pen on
3 several occasions?

4 A Yes, I have.

5 Q And you know that he also pleaded guilty?

6 A Yes, I do.

7 Q To murder second?

8 A Right.

9 Q And during these many periods or this period
10 of months from June until now, you have had occasions
11 to observe the defendants who did not plead guilty, to
12 find out their names, who they were, what they looked
13 like, have you not?

14 A As far as observing them, yes, I have.

15 As far as knowing the names or knowing how
16 they look, I already know that.

17 Q Oh, you know how they look. You have heard
18 them in Court, too, getting up and saying, "My name is"
19 so-and-so, "My name is" so-and-so, have you not?

20 A I know --

21 MR. MARTIN: May I ask that the witness answer
22 the question instead of volunteering information, please?

23 THE COURT: I haven't heard him volunteer
24 anything in answer to your question.
25

1
2 MR. MARTIN: He started to. I'd like the Court
3 to admonish --

4 THE COURT: So far he has been answering the
5 questions.

6 MR. MARTIN: I ask that the question be
7 read back.

8 (Record read.)

9 THE COURT: The answer is yes or no.

10 A Yes.

11 MR. MARTIN: Your Honor, may I have a moment
12 to confer with co-counsel, please?

13 (Pause.)

14 MR. MARTIN: Thank you, your Honor.

15 Q Mr. Myers, do you know Paul Crawford?

16 A Do I know him?

17 Q Yes.

18 A Yes, I do.

19 Q And Paul Crawford was also a defendant in
20 this case?

21 A Yes.

22 Q And did you know that he had been severed and
23 pleaded guilty to a conspiracy?

24 A I didn't know what he pleaded to, but I know
25 he had been severed.

Q Now, Mr. Crawford appeared on the stand in this case and testified.

Have you ever consulted with him concerning the contents of his testimony as he gave it in Court?

A I don't quite understand what you're saying.

MR. MARTIN: All right. Question withdrawn.

Q When Mr. Crawford testified on the stand the other day, and I am talking about Mr. Paul Crawford, in answer to this question, "What happened on Tuesday, March 20, 1973, concerning the job," he answered as follows --

MR. MARTIN: Well, question withdrawn.

Q Paul Crawford testified to the effect that sometime around the 20th of March, the 19th or 20th of March --

THE COURT: Let's not have "to the effect."

MR. MARTIN: You want me to read it directly?

THE COURT: Obviously.

MR. MARTIN: Okay. Thank you.

THE COURT: And tell the Court and counsel what page you are referring to.

MR. MARTIN: On Page 2 of the exhibit concerning Paul Crawford.

MR. KENNEY: McCloskey's Exhibit B for identifi-

cation.

THE COURT: McCloskey's?

MR. DIRENZO: May I suggest something to Mr. Martin, please?

THE COURT: You might as well. That is not in evidence.

Q Paul Crawford testified that on or about March 20th he rode up from Washington with you, is that accurate?

A Yes.

Q And that you arrived in Brooklyn at about 3:30 or 4:00 p.m. on that day, is that correct?

A I don't know where we're at.

Q And that he called Chester. Were you with him at that time?

A I was with him when he made a phone call. I don't know who he called. I know who he told me he called.

Q Isn't it a fact that when you testified, you testified that you first went up to upper Harlem?

A Yes.

Q And where did you go in upper Harlem?

A I remember seeing the numbers of streets like 130, 127, etc., etc.

Q And you were with Paul Crawford at this time?

A Yes, I was.

Q What did you do in upper Harlem?

A That is where he made the phone call from.

Q Is that where Paul Crawford made the phone call?

A Yes, it is.

Q It wasn't in Brooklyn?

A No, it wasn't.

Q What else did you do in upper Harlem?

A Well, he made several phone calls, a few of which he didn't get any answer, so we waited by a phone booth that was in a gasoline station for, I would say, about an hour, hour and a half, until he got whoever he was trying to get.

Q Did you stop at any places up there?

A No.

Q Did you have anything to eat or drink up there?

A Yes.

Q Tell me where you stopped to eat and drink.

A I went in a grocery store and got some beer, but I don't know where that was, and I went into a liquor store and got some scotch, but I don't know where that was.

Q How much beer did you get?

A Six-pack.

Q One six-pack?

2 A Yes.

3 Q And how much scotch did you buy?

4 A I think a half a pint.

5 Q And did you then drink the beer and the scotch?

6 A Yes, I did.

7 Q And then, after drinking the beer and scotch,
8 this six-pack and the bottle of scotch that you had,
9 when after that --

10 THE COURT: Wait. Are you assuming he did, all
11 at one sitting while he was sitting in the gas station;
12 is that the implication of your question?

13 MR. MARTIN: I don't necessarily believe he
14 was sitting in the gas station, your Honor. I am not
15 assuming that is true.

16 THE COURT: You know that is not my point.
17 You are assuming that he downed this all at once, and I
18 don't think his answer justifies that assumption.

19 That is all I am saying to you, Mr. Martin.

20 MR. MARTIN: If your Honor please --

21 THE COURT: Now, please, Mr. Martin, I have made
22 my point. That is all I'm putting to you.

23 MR. MARTIN: Are you restricting me from
24 inquiring into it?

25 THE COURT: Obviously not, Mr. Martin. But I

1
2 am trying to direct you to ask some questions that will
3 have some meaningful answers.

4 MR. MARTIN: But, your Honor, I am not assuming --

5 THE COURT: Mr. Martin, now, look, you know
6 what I'm talking about. Please don't argue.

7 I'm saying the implication of your question is
8 that he downed it all at once, and I don't think his prior
9 answer justifies that implication.

10 MR. MARTIN: Well, if your Honor please --

11 THE COURT: Next question, Mr. Martin.

12 MR. MARTIN: May I make --

13 THE COURT: Next question, Mr. Martin.

14 MR. MARTIN: I can't make a record, your Honor.

15 THE COURT: No.

16 MR. MARTIN: Respectfully except.

17 THE COURT: Not in this instance.

18 Q How long did it take you to drink the beer
19 and the scotch?

20 A Are you talking about all of it?

21 Q Well, let's start with the beer.

22 How long did it take you to drink the beer?

23 A I didn't drink but two cans.

24 Q Excuse me?

25 A I didn't drink but two cans.

Q How about the scotch?

A I took about three shots, maybe four.

Q And where did you take these three shots?

A I was in my car.

Q Were you driving the car?

A Yes, I was.

Q And you drove the car after you had three shots of scotch and after you had two cans of beer?

A Yes, I did.

Q And was this during this hour and a half period while you were waiting outside the gas station?

A No, I was sitting. I wasn't driving it. I was sitting in my car.

Q You told us before you spent an hour and a half at a gas station outside of a phone booth. Is that correct?

A Right.

Q And was it during this period of time that you were drinking the beer and the scotch?

A Yes, it is.

Q And is that the entire of period of time that you remained up in upper Harlem?

A I am approximating the time.

Q That is what I'm saying.

1
2 A That time we were sitting still in upper Harlem.
3 There were times when we were driving, after he made
4 his phone calls, that we would have still been in upper
5 Harlem until we came out.

6 Q When you were driving in upper Harlem after
7 leaving the gas station, where did you drive to and what
8 did you do?

9 A We drove to a place called Williamsburg.

10 Q But that is in Brooklyn, is it not?

11 A I don't know.

12 Q I see.

13 Did you stop in any other places for any drinks
14 from upper Harlem until you got to Williamsburg?

15 A I don't believe so.

16 Q Did you drink any more of the beer or the scotch
17 on your way to Williamsburg?

18 A I don't believe so.

19 Q When you got to Williamsburg, what did you do?

20 A We were waiting for his brother to arrive. We
21 were to meet him there.

22 Q While you were waiting for him to arrive, did
23 you drink?

24 A No, I didn't.

25 Q Did there come a time when Chester arrived?

1 A Yes, it did.

2 Q What time did he arrive at?

3 A I say about 4:00 or 5:00. I'm not sure on
4 the time.

5 Q Now, did there come a time, after Chester
6 arrived, that you left Williamsburg that day?

7 A Yes.

8 Q Where did you go?

9 A We were driving around with Chester.

10 Q You were driving around with Chester?

11 A Yes.

12 Q And where did you drive around?

13 A That I don't know, where we drove around.
14
15 Wherever he was going.

16 He has a habit of not going straight to a certain
17 point. He likes to drive aimlessly, more or less, I will
18 say.

19 Q And how long did you aimlessly drive around?

20 A I can't approximate no time.

21 Q And during this aimless driving, did you make
22 any stops?

23 A Yes, he did.

24 Q Where did you stop?

25 A Well, Chester himself made two or three stops.

1 Q And where did he stop?

2 A I don't know. I saw him go into two stores
3 and I saw him go into an apartment building, but I have,
4 you know, I can't tell you where he was going.
5

6 Q You saw him go into two stores, is that correct?

7 A Right.

8 Q And a parking field?

9 A An apartment.

10 Q Do you know where this was?

11 A No, I don't.

12 Q Did he tell you he was going to see Maria?

13 A He didn't say anything to me concerning what he
14 was doing.

15 Q Did he buy anything in the stores?

16 A If he did, I don't remember.

17 Q Did he buy any liquor?

18 A I don't remember if he bought anything; if he
19 bought something I don't know what it was. If he didn't
20 buy something, I don't know.

21 Q You don't know where this was, this aimless
22 driving and the places he stopped?

23 A No, I don't.

24 Q During the time you were aimlessly driving
25 about and you stopped, was anybody drinking the beer and

the scotch that was left?

A That was in my car.

Q It was in your car and you left it in your car?

A Yes, I did.

Q Did Chester have any whiskey or beer with him?

A You have got to ask him that. I don't know.

Q Where you in the car with Chester?

A I am in the car with him. I am not going through his car. I'm riding with him.

Q Well, did you see any beer or whiskey?

A No, I didn't.

Q Did Paul Crawford -- was he in the car with you?

A Yes, he were.

Q Was anybody else in the car with you?

A Just us three.

Q Now, that day, Paul Crawford said that "We then left 3rd Street and went to South Street to go over the run that the mail truck was supposed to be taking. Chester was explaining to Terry that this was the route the mail truck takes. He said it stops in one place and leaves there and goes to another, and then proceeds down 10th Street."

Do you remember that happening on that day?

1 A Not quite that way, no, I don't.

2 Q Do you know anything about 10th Street?

3 A No, I don't.

4 Q Do you remember seeing it that day?

5 A No, I don't.

6 Q Do you remember Chester telling you, on that
7 day, this is the first time you met him, about a mail
8 truck and the route it takes?

9 A Yes, I do.

10 Q Wasn't it your testimony before that you went
11 right back to your motel after meeting Chester?

12 A I don't know how you took it, but that wasn't
13 my meaning.

14 Q Is it now your testimony that on the first day
15 you went down to South Street and ran through --

16 A I say we went to that general vicinity. We
17 didn't go to no specific spot that I can describe.
18 We went to that general vicinity.

19 Q Into what general vicinity is that?

20 A The general vicinity of which the postal truck
21 takes his route. As I don't know the streets and I don't
22 know where I was, I can't tell you where I was at.

23 Q Do you know if it was in upper Harlem or in
24 Williamsburg?

1
2 A I have heard it referred to as the Wall Street
3 district by Chester and a few of us; that's the only
4 reason I call it the Wall Street district.

5 Q And it is your testimony now that on March 20th,
6 that day, the first day you met Chester, you went down
7 there?

8 A Yes, I did.

9 Q And how long had Chester been aimlessly driving
10 around with you before you went down there?

11 A I'd say an hour, our and a half.

12 Q Was it light or dark when you arrived in
13 the Wall Street area?

14 A That I can't remember. I can't remember that.
15 I would say it was just getting dark, but you know I can't
16 approximate no time.

17 Q Paul Crawford said that "the conversation was
18 mainly about" -- this is the conversation between you
19 and Chester -- "the conversation was mainly about where
20 they were going to hit the truck. They'd not really
21 decided where they were going to hit it yet. They picked
22 up the money at the Federal Reserve, and then went to
23 the rest of the post offices, and they were going to
24 hit it somewhere after they got to the Federal Reserve."

25 Do you remember that?

2 A No, I don't.

3 Q Did Chester tell you that on this first day?

4 A Not in those words, no.

5 Q So, when Paul Crawford said that, would you say
6 that Paul Crawford was mistaken?

7 A I would say that that is his version of what
8 happened.

9 Q And that version differs from your version?

10 A Yes, it does.

11 Q And in what respects does it differ?

12 A Well, it differs in the respect that the only
13 building he actually pointed out to me was the Federal
14 Reserve. He didn't point out any post office or anything
15 else. The streets that he drove on, he didn't specifically
16 say if that was the route that the truck was taking. He
17 was just showing me that vicinity.

18 Now, if he was on that route, I didn't know it.

19 Q And he didn't tell you that?

20 A Not specifically, no. He was just giving me
21 ideas about it.

22 Q And so, when Paul Crawford says otherwise,
23 you are saying his testimony is mistaken or his statement
24 is mistaken?

25 A Well, maybe he knows a little more about it than

1
2 I do. Maybe he knows New York better than I do. I don't
3 know New York very well.

4 Q But the three of you were together during this
5 time?

6 A We were.

7 Q That is Paul Crawford, yourself and Chester
8 Crawford?

9 A Yes, we were.

10 Q And only the three of you?

11 A Right.

12 Q Geoffrey wasn't there?

13 A No, he wasn't.

14 Q Nobody else was there, just the three of you
15 riding in one car?

16 A Right.

17 Q Now, that was Tuesday, March 20th.

18 Now, the next day, Wednesday, March 21, 1973,
19 Paul Crawford said the following -- there was a question,
20 "On Wednesday, March 21, 1973, what happened?"

21 Now, Paul Crawford said this:

22 "When I first woke up, I called Chester, and
23 he told me as soon as the other two arrived to meet him
24 on 3rd Street in Brooklyn. Geoffrey arrived about 2:00
25 p.m. and then we went to 3rd Street in Brooklyn and

jkmoh 24

Myers-cross

arrived at about 4:00 or 4:30 p.m., and then went to the lower part of Manhattan and checked the route again."

Is that accurate?

A I believe so, yes.

Q The timing is accurate?

A I don't know about the time.

Q The place is accurate?

A As far as the area we went to concerning the postal truck, yes.

Q And this is on Wednesday, March 21.

A The second day I was here, yes.

3B

Q He then goes on: "The four of us, Chester, Terry, Jeffrey and myself went over the run."

Is that accurate?

A I don't know what he means by "over the run."

Q "They explained the run to Jeffrey."

Now, this is the four of you there. This is with you, Paul Crawford, Chester Crawford and Jeffrey. Were they the only four there at that day, and nobody else was there?

A Yes, that's right.

Q "They explained the run to Jeffrey, to see what he could come up with, and to see if they had any good ideas of where they could hit the truck."

Do you remember any conversations about that?

A I remember Chester telling Jeffrey the same thing he had told me, yes.

Q And that was on the 21st?

A Right.

Q Let me just go back for a moment. I had overlooked something before.

In the statement about the previous day, Paul Crawford said as follows: "They picked up money at the Federal Reserve and then went to the rest of the Post Offices and they were going to hit it somewhere after

they got to the Federal Reserve. After the run was over he said it would be safer to go back to New Jersey to get a room than to stay in the City. We went back to the Holiday Inn, the one you come to after you go through the tunnel, lower Manhattan. Terry signed us into the room under his name, we stayed in all night, after we signed in for the room. Terry made a call to Jeffrey. I did not hear the conversation. He told me the next morning that a friend of his was coming up and Jeffrey called from Morristown, New Jersey."

Now, is that portion of Paul's testimony accurate, that the first night you were here you registered in a motel the other side of the Holland Tunnel and stayed there, is that correct?

A That part, yes.

Q And that was after you had gone down with Chester, cruising around first, and then downtown New York, and Paul said that you and he went to the room and stayed in that room all night; is that accurate?

A No, it is not.

Q Did you go out alone at any time?

A Yes, I did.

Q Did Paul go out with you?

A No, he didn't.

Q So if he testified to that --

MR. MARTIN: Question withdrawn.

Q If Paul stated that, he would be incorrect, is that correct?

A Yes, he would.

Q And your version of what happened you think would be correct?

A My version is to the best of my recollection, and I am giving it to you that way.

Q Now, do you feel that your recollection, as you recall it, because you are saying to the best of your recollection, do you believe that your recollection of the events as you now recollect them is superior to the statement that Paul said?

MR. KENNEY: Objection.

THE COURT: Sustained.

Q Now, Paul goes on, continuing on Wednesday, this is March 21st, the following day; Paul said, "The four of us, Chester, Terry, Jeffrey and myself went over the run up. The spot was still undecided. They said they had a man to disarm the people, and I guess the same person who was going to disarm the person was going to drive the truck. Terry and Jeffrey were to take the guards and put them in the car and knock them out

and tie them up and leave them somewhere."

Now, Paul Crawford made this statement. Do you subscribe -- is your statement or your recollection of these events the same as his?

A Part of it, yes.

Q You were to knock out the guards and tie them up and leave them there?

A No.

Q So your recollection of events are not the same as Paul Crawford's?

A No, they are not.

Q He said that -- this is going to March 21st, 1973, while you, Chester, Paul and Jeffrey were driving around, down in that Wall Street area, this is what he is saying: that, he said, "All they needed was two pistols, a rope and an old blanket, so they could tie them up and then leave them in the car and then they could leave."

Did you say that?

A What you are talking about, sir, is --

MR. MARTIN: Excuse me, if your Honor please, may I have the witness answer the question?

THE COURT: Can you answer it?

THE WITNESS: I can clarify it for him completely

1 if he wants me to. If he doesn't want me to clarify it,
2
3 I will just say yes or no. That is up to him.

4 THE COURT: Give a yes or no answer.

5 THE WITNESS: Repeat the question.

6 MR. MARTIN: May I have it read back, please?

7 (Question read.)

8 A No.

9 Q Did Chester say that?

10 A No.

11 Q Was Paul Crawford mistaken about somebody having
12 said that at that time?

13 A No, he's not.

14 Q So his statement is accurate?

15 A No, it is not.

16 Q Now, did there come a time -- and this is the --
17 I am talking about Wednesday, March 21, 1973 -- did there
18 come a time that evening when you went to a diner in New
19 Jersey?

20 A A diner?

21 Q Yes.

22 A I don't remember that.

23 Q Did there come a time when you drove out to
24 New Jersey with Paul Crawford, Chester Crawford, Jeffrey
25 and yourself and come into a parking lot in which was

located a diner?

A If we did, I do not remember that.

Q Excuse me?

A If we did, I do not remember that.

Q Do you remember, on that day, Chester Crawford getting out of the car, going over to a diner and meeting and standing with a man in the lobby of the diner?

A No, I don't.

Q Well, did you go any place that evening -- that is March 21st -- with Chester, Paul and Jeffrey?

A Yes, I did.

Q And is it your recollection that you did not go to a diner?

A That's correct.

Q This is a statement that Paul Crawford made. "The guy was white. I don't know what kind of business he was in. He was a little smaller than I, but about the same height. We went to Jersey and Chester called the Italian dude from New Jersey. He said he would be there in 30 minutes. He showed up about an hour later. They talked in the lobby of the diner. Then they split and Chester came back to his car and gave Terry and the fare for the hotel. They went to the hotel and Jeffrey Chester and myself went to the house."

1
2 Were you there at this diner when Chester met
3 this man in the lobby?

4 A If I was, again I will say I don't remember it.

5 Q Is it possible that you were there and your
6 memory fails you?

7 A That could be. That is a possibility, yes.

8 Q And it could very well be that you have forgotten
9 that incident totally?

10 A It is possible.

11 Q Now, do you remember Thursday morning, March 22,
12 1973?

13 A Yes, I do.

14 Q Is that the day that you flew back to Washington
15 to check the papers on your automobile?

16 A What date was that?

17 Q Thursday, March 22, 1973.

18 A No, it wasn't.

19 Q That morning, do you remember anything happening
20 between Chester and yourself?

21 A On the 22nd?

22 Q Yes.

23 A Yes, I do.

24 Q By the way, how tall are you, Mr. Myers?

25 A 6-2.

1
2 Q Did there come a time when you and Jeffrey
3 registered at a little motel, a little hotel in New
4 Jersey, outside of New York?

5 A What day is this?

6 Q Thursday, March 22, 1973.

7 A We registered at a hotel in New Jersey?

8 Q Yes.

9 A No, we didn't.

10 MR. MARTIN: Can I take a look at the cards,
11 please?

12 May I have a moment, your Honor?

13 (Pause.)
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Q I show you this document and ask you if this refreshes your recollection as to your being in a motel outside of New York?

A Sir, you asked me about the 22nd. This is dated the 21st. The checkout date is the 22nd. I registered here the 21st. I didn't register in the motel in New Jersey on the 22nd.

Q When I asked you the question before, did you know, in fact, that you had registered in a motel on the 21st?

A Yes, I did. You asked about the 22nd.

Q So when you were answering my question you, in fact, knew that you were in that motel on the 22nd?

A I was in that motel on the night of the 21st, not the night of the 22nd. We checked in the night of the 21st.

Q But it is your testimony now that you were in the motel during the date of the 22nd?

A I was not in the motel the day of the 22nd. We checked out the morning of the 22nd.

Q At what time did you check out?

A That would have been early in the morning, like 10, 11 o'clock.

Q On the 22nd?

2 A Right.

3 Q And you knew that before?

4 THE COURT: That wasn't your question before.

5 THE WITNESS: I didn't check in on the 22nd;
6 I checked in on the 21st. You asked me did I check in.
7 That is the day I left.

8 MR. MARTIN: So I made a mistake.

9 THE COURT: That is right.

10 MR. MARTIN: I am sorry. I apologize.

11 Q Do you now remember meeting with Chester and
12 Paul in a motel, any motel, on the 22nd?

13 A I met them the morning of the 22nd, yes.

14 Q And you met them in this motel?

15 A Yes.

16 Q Now, during this period of time, these two days,
17 the first two days in which you had met with Chester
18 Crawford and Paul Crawford and Jeffrey, was Chester Crawford
19 explaining about the job to you?

20 A Yes, he was.

21 Q I would like to call your attention at this time
22 to your statement, the 27-page statement, starting at the
23 bottom of page 2. Do you remember these questions being
24 put to you and your giving these answers, questions by Mr.
25 Foster, and I assume he is the Postal Inspector, one of the

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Postal Inspectors who was questioning you at the Post Office?

A Yes.

Q Which was the day that you were arrested?

A Yes.

Q "Foster: Who went to New York?

"Myers: Just me and Paul.

"Foster: Whose car were you driving?

"Myers: Mine, a 1967 Cadillac, black interior and white body, black convertible top."

Is that accurate? Was that your answer?

A Yes, it is.

Q Incidentally, what kind of work were you doing at this time?

A It was not.

Q Before then what was the regular job you had?

A That would have been in '69 and '70.

Q When did you buy this 1967 Cadillac car?

A I would say March of '72.

Q You were not working at this time?

A No.

Q Where did you get the money to buy the '67 Cadillac car?

A That is none of your business.

MR. DIRENZO: What is the answer?

THE COURT: He says that is none of his business, and I sustain his objection.

MR. MARTIN: If your Honor please, I would like to object and move for a mistrial on that one.

THE COURT: Denied.

Q Did there come a time when you sold that car?

A When I sold it?

Q Did there come a time when you sold that car?

A Being I was arrested for this charge, I instructed my wife to give it back to the Ford Company which I bought it from. I didn't sell it.

Q Did you finance the purchase of that car?

A How can I finance something; I am not a finance company; I had it financed.

MR. KENNEY: Objection.

THE COURT: I sustain the objection.

MR. MARTIN: If your Honor please --

THE COURT: I have ruled. You can't have an argument on every objection.

Q Then Mr. Foster said, "Where did you go in New York?"

And you said, "Williamsburgh."

Is that correct?

A Right.

Q But, actually, that was not the fact, was it? You went to upper Harlem first?

A He didn't ask me all the places I stopped at or all the places I went. When he said, "Where did you go?" I figured he meant where we ended up at.

Q So it is your testimony now you ended up in Williamsburgh?

A Right.

Q Incidentally, where did you tell us before that you met Chester in Williamsburgh?

A I don't believe you asked me, but it was, I think we were off a street called South Third Street.

Q You met him in the street, South Third Street, in Williamsburgh?

A At that intersection.

Q Did you tell Myers that you met him in a kosher delicatessen?

THE COURT: The witness's name is Myers, Mr. Martin.

MR. MARTIN: Thank you, your Honor.

Q Did you tell Mr. Foster that you met him in a kosher delicatessen?

MR. KENNEY: Objection. There is no basis in fact for that question.

THE COURT: At that point?

MR. KENNEY: I am referring to Government's Exhibit 3528 for identification.

THE COURT: Is that what the page says?

MR. MARTIN: I didn't refer to that. I just asked him.

THE COURT: You are giving the impression that you are referring to that, Mr. Martin?

MR. MARTIN: I am trying to get the man to answer questions.

THE COURT: He is answering questions. I am going to the point of the government's objection, that you appear to be reading from a document, and the government's objection is that you are not reading it correctly. Now, you tell me you are not reading from the document?

MR. MARTIN: I was not reading from the document.

THE COURT: You gave the impression that you were. This is the third time I am telling you what I am talking about. You are giving the impression that you are reading from the document that is on the balustrade of the jury box, since you are looking at it.

MR. DIRENZO: May I ask the Court to declare a short recess?

THE COURT: Not right now. We have been only been going for an hour and 20 minutes.

MR. DIRENZO: It was only a request.

MR. MARTIN: I would like to apologize to the Court if I gave the wrong impression, and for the sake of the record I would like now to move for a mistrial.

THE COURT: Denied.

BY MR. MARTIN:

Q Mr. Myers, did you tell this Postal Inspector, whose name, I believe, was Foster, that you met Chester in a kosher delicatessen?

A No, I didn't.

Q You didn't?

A No. He asked me to describe the area in which I was waiting for Chester. I said the only thing I could distinctly remember was a kosher delicatessen on one of the corners. He didn't ask me if I met him inside the delicatessen.

Q Before you came to New York, had you been coming up to New York on a regular basis?

A I had been in New York maybe fix or six times.

Q Before this did you know what a kosher delicatessen was?

A Yes, they got them in D.C., too. There are some

in D.C., too.

2

Q I would like to bring your attention to page 4 of this document that you have, starting near the top of page 4. Mr. Foster asked you this question:

"Foster: You met Paul the next morning, is that correct?

"Myers: Right.

"Foster: Let's go back to when you were in Chester Crawford's car in Williamsburgh. Tell us what conversation took place and describe his car.

"Myers: He has a large yellowish-brown like and gold car, two-door, hardtop, and it was a rental car." Do you remember those questions and those answers?

A Yes, I do.

Q Are they accurate?

A As accurate as I could make them.

Q They were accurate at the time you said it to him?

A Right.

Q To the best of your recollection?

A Right.

Then we will skip down to a question where it says -- and this is referring to a conversation you had with Chester in his car, at this conversation when you first met

2 Chester in New York, you were sitting in the car with him,
3 you were sitting in the car and Paul Crawford was sitting
4 in the car, and then Chester was in the car, the three of
5 you. Now, did Chester at that time tell you that he
6 was looking for some new men, for some new faces for
7 this job that he was telling you about in the Wall Street
8 area?

9 A Yes, he did.

10 Q That was Chester, with just the two of you
11 there?

12 A There was three of us. Paul was there also.

13 Q Excuse me?

14 A There were three of us.

15 Q You mean Chester and yourself and Paul?

16 A Right.

17 Q Then continuing:

18 "Foster: Did you stay in New York that night?

19 "Myers: I stayed at the Holiday Inn in New
20 Jersey on the other side of the Holland Tunnel in New
21 Jersey."

22 Was that your answer?

23 A Yes, it was.

24 Q Was that accurate?

25 A That is what I thought it was, and that is the

name of the hotel.

Q "Foster: Who else stayed in the Holiday Inn?

"Myers: Paul.

"Foster: Did you register in your own name?

"Myers: I think I did.

"Foster: Did Paul register?

"Myers: I don't think so.

"Foster: Whose car were you in?

"Myers: I drove my car."

Now, didn't you tell us before that when you met Chester and Paul after you came from upper Harlem and went to Williamsburgh, that the three of you rode aimlessly around and then later on went down to the Wall Street area and that this was in Chester's car?

A Right.

Q Now you are saying that you drove your car on the same night to Jersey. Is that accurate?

A You are referring to going to the motel? Or are you referring to when we went down the Wall Street district?

Q I am referring to the motel.

A When we went to the motel I drove my car.

Q So is it now your testimony that after going around with Chester, going to the Wall Street area --

Incidentally, where had you parked your car when you got into Chester's car that day?

A Near South Street.

Q That would be in Williamsburgh?

A Yes.

Q Is it now your testimony after you met and rode around with Chester to the different places, that he then drove you back to Williamsburgh to get your car?

A That is apparent.

Q Is that in fact what happened?

A Right.

Q And then you and Paul get out and get into your car and go to the motel?

A Right.

Q Where did Chester go at that time?

A He was with us while we went over there. He wanted to know where we were staying at. He was driving his car, but he was still with us.

Q You went over there in two cars?

A Yes.

Q Who was seated in your car?

A Paul.

Q And Chester drove himself?

A Right.

Q And Chester drove by himself?

A Right.

Q Continuing, and this is after you said, "I drove my car," Mr. Foster asked you:

"Did Chester stay in the Holiday Inn?"

And you answered: "He stayed there about an hour and then left."

Is that accurate?

MR. KENNEY: Objection. I am lost. I don't know what page this is on.

MR. MARTIN: Page 5, continuing from page 4.

MR. KENNEY: Thank you.

A Yes.

Q And Chester and Paul were with you at this time in the Holiday Inn?

A No, not in the Holiday Inn.

Q Not in the Holiday Inn?

A Part of this conversation took place outside and part of it took place inside.

Q The next question is: "Did you discuss the truck any further?"

This is on the first day in New York.

And your answer was: "No, but he said he had somebody he wanted me to meet the next day."

Foster then asked you: "Tell us who you met the next day and where you stayed."

And you answered: "I met a dude named Tommy or Tony at a beer tavern in New Jersey."

Is that accurate?

A The best I can remember, yes.

Q You said that Chester stayed there about an hour and then left? Is that accurate?

A Yes, we talked for some time, yes.

Q Now, did you see Chester after he left the Holiday Inn for the rest of that night?

A No.

Q Was it your testimony earlier that you then left the motel and went some place and met somebody?

A I don't know what you are talking about.

Q Let me take you back to your testimony again. Did you testify before that you and Paul stayed in a motel the first night?

A The Holiday Inn?

Q Well, the first night you stayed in a hotel?

A Right.

Q And you stayed there with Paul?

A Right.

Q The two of you. And I brought out before that

Paul had stayed there, the two of you had stayed there that night?

A And I stated that I left.

Q You stated that you left. Now, when you left, did you leave alone?

A Yes, I did.

Q Did you go any place?

A Yes, I did.

Q By yourself?

A By myself.

Q Not with Chester?

A No.

Q Not with Paul?

A No.

Q Not with anybody else?

A No.

MR. MARTIN: May I have a moment, your Honor, to confer?

THE COURT: Yes.

Q Is it your testimony now that you went out alone?

A Yes.

Q This is on your first night in New York?

A Right.

Q Did you know anything about New Jersey?

1
2 A No.

3 Q Did you know any places or anywhere to go?

4 A No.

5 Q Anything to do?

6 A No.

7 Q Did you know your direction? Your way around New
8 Jersey?

9 A No, I didn't.

10 Q Now, isn't it true that on direct testimony
11 you said you went to a specific place and met a specific
12 person?

13 A No, I didn't.

14 Q What did you do that first night when you left
15 the motel room?

16 A I left the motel room and I went across the
17 street to a delicatessen and I got something to eat for
18 both me and Paul, and I brought that back. I left the
19 room again and went downstairs to a pay telephone to call
20 Jeffrey. That is what you forgot to ask me.

21 Q Did I forget to ask you anything else?

22 A I don't know. I am waiting on you.

23 Q So outside of your visit to some delicatessen
24 and outside of your phone call, did you go any place else
25 that first night?

1
2 A No, I didn't.

3 Q Then you went back in the room and went asleep?

4 A Right.

5 Q The rest of the night? And Paul was there?

6 A Right.

7 Q So on that first day you were in New York you
8 spoke to no one other than Chester and Paul? Is that
9 correct?

10 A Right.

11 Q And to whomever you spoke to on the telephone?

12 A Right.

13 Q Going to page 6, down toward the bottom, there
14 is a question by Foster: "Who pointed out the truck and
15 the route?"

16 Your answer was: "Chester."

17 Was that answer accurate?

18 A I don't see it. Oh, okay.

19 Q There is a question by Foster: "Who pointed out
20 the truck and the route?"

21 And your answer was: "Chester."

22 Is that accurate?

23 A Right.

24 Q Did you make that answer?

25 A Right.

1
2 Q Going over on page 7, about a third of the way
3 down the page, there is a question by Mr. Foster:
4 "Did Chester point out the place where they were going to
5 take the truck?

6 "Myers: He said they wanted to do it between
7 the Post Office and the bank, which the truck was supposed
8 to go to. It was a stretch where it runs about three or
9 four blocks. And I picked up the spot where there was a stop
10 sign."

11 Do you remember giving that answer?

12 A Right.

13 MR. KENNEY: Objection, your Honor. These
14 questions are taken from a statement which is not in
15 evidence, and I just ask that Mr. Martin fix a time and
16 place so when these statements were given, not as to Mr.
17 Foster, but I mean what time would they relate to and when?

18 THE COURT: Well, so far I think I have under-
19 stood the time sequence, but if you feel it needs clarifica-
20 tion.

21 MR. MARTIN: Question withdrawn.

22 THE COURT: We will have a short recess.

23 (Jury and witness excused.)

24 THE COURT: I get the impression, Mr. Martin,
25 that a number of things you are questioning the witness

1
2 about from his statement that he gave the Postal Inspector
3 are not inconsistent with his testimony so far, and I wish
4 you would be careful and delineate those which are in-
5 consistent and those which are not, and we will move along
6 much faster.

7 MR. MARTIN: This particular question, the
8 stop sign, is not.

9 THE COURT: There were one or two before, and
10 there is no need to go into things of that type.

11 What about Mr. Mitchell? Is he here?

12 MR. KENNEY: Yes. May I check to see whether
13 Mr. Mann is here?

14 (Mr. Robert Mitchell makes his appearance.)

15 (Recess.)
16
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(Jury not present.)

(Robert Mitchell, Esq., present.)

THE COURT: What is the name of Mr. Mitchell's client?

MR. MITCHELL: Geoffrey Mann.

THE COURT: Mr. Mitchell, have you discussed with Mr. Mann the procedures here?

MR. MITCHELL: Yes, your Honor.

THE COURT: Is he fully conversant with them?

MR. MITCHELL: I believe so.

THE COURT: I gather you will not be present Monday?

MR. MITCHELL: No, I am on trial before Judge Pollack, if we get off the ground.

THE COURT: Is Mr. Mogel here?

MR. MITCHELL: No.

MR. KENNEY: He may be with his client.

(Pause.)

(Mr. Mogel present.)

THE COURT: Mr. Mogel, Mr. Mitchell informs me that he cannot be present on Monday because he's starting a multi-defendant trial before Judge Pollack, and I wondered if, when Mr. Mann goes through cross-examination on Monday, hopefully, could you be present?

1
2 MR. MOGEL: Well, with Mr. Mann's permission,
3 I will.

4 THE COURT: That is why I'd like to have you
5 here, because you know what's involved.

6 MR. MOGEL: Yes.

7 THE COURT: And you represent Mr. Myers now.

8 MR. MOGEL: Would you like me to ask Mr. Mann?

9 THE COURT: We can ask him out here.

10 Bring Mr. Mann in.

11 (Defendant Geoffrey Matthew Mann entered the
12 courtroom.)

13 THE COURT: Sit down here, Mr. Mann.

14 Mr. Mann, we have asked you to come out here
15 at this time because Mr. Mitchell, your attorney, will
16 not be able to be here on Monday when the Assistant
17 United States Attorney intends to examine you, and
18 consequently, I'd like to clear up this question now of
19 your claim of your Fifth Amendment privilege regarding
20 an incident to which you will be asked to testify and
21 the granting of immunity.

22 Has Mr. Mitchell discussed with you, Mr. Mann,
23 this problem that we're talking about?

24 DEFENDANT MANN: Yes, sir.

25 THE COURT: And I understand from Mr. Mitchell

1 that if you are asked any questions regarding what occurred
2 at the Plaza National Bank in Secaucus, New Jersey, on
3 March 22, 1973, that you will assert your Fifth Amendment
4 privilege; is that correct?
5

6 DEFENDANT MANN: Yes, sir.

7 THE COURT: Is that correct, Mr. Mitchell?

8 MR. MITCHELL: That is correct, your Honor.

9 THE COURT: And you have advised the defendant
10 of his right to so testify?

11 MR. MITCHELL: Yes.

12 THE COURT: Do I also understand that, aside
13 from asserting your Fifth Amendment privilege to that
14 portion of the examination that you are testifying freely
15 and fully regarding the events of this transaction which
16 the Court is trying?

17 DEFENDANT MANN: Yes, sir.

18 THE COURT: Did you so understand and advise
19 the defendant of that, Mr. Mitchell?

20 MR. MITCHELL: Yes.

21 THE COURT: All right, Mr. Mann, I now, in
22 your presence, am signing an immunity which, in effect,
23 directs you to answer the questions regarding the events
24 that took place at the Plaza National Bank in Secaucus,
25 New Jersey, on March 22, 1973, because you are being

1 granted immunity from prosecution for anything involved
2 in those events only. Is that correct, Mr. Mitchell?

3 MR. MITCHELL: That is correct.

4 THE COURT: And have you described to Mr. Mann
5 what is meant by use immunity?

6 MR. MITCHELL: Yes, I have explained to him
7 that if he lies there is a possibility of perjury.

8 THE COURT: You understand?

9 MR. KENNEY: We just want to make clear that Mr.
10 Mann was being granted immunity as your Honor has
11 mentioned and not immunity from prosecution. He's being
12 granted immunity from having anything --

13 THE COURT: I know what it means.

14 I assume you are getting up to clarify it for
15 Mr. Mann.

16 MR. KENNEY: Yes, just to make sure the witness
17 understands.

18 THE COURT: In other words, nothing that you
19 say here, no testimony you give here, or any fruits of
20 such testimony can be used against you.

21 MR. MARTIN: If your Honor please, are our
22 objections still running that we originally made to the
23 other witnesses?

24 THE COURT: Yes, Mr. Martin. We made an agreement
25

1 at the very beginning of this trial that objection by
2 one covered everybody; number two, that if you made an
3 objection, requested a continuing objection, you needn't
4 make it again.
5

6 MR. MARTIN: Excuse me that's for each witness,
7 also?

8 MR. DIRENZO: The Court said that.

9 THE COURT: Now, Mr. Mann, as I have said,
10 Mr. Mitchell cannot be here to be with you during your
11 cross-examination by defense counsel. It may be that they
12 may ask some questions to which you would want to plead
13 the Fifth Amendment. And, consequently, I have asked
14 Mr. Mogel to be here in case you want to confer with him
15 during cross-examination.

16 Mr. Mogel, as you know, represents Mr. Myers,
17 and he is familiar with the problems involved, and to that
18 extent I am convinced, at least, that you will be fully
19 represented.

20 Is this agreeable to you?

21 DEFENDANT MANN: Yes, sir.

22 THE COURT: All right. You may step down.

23 MR. MITCHELL: Thank you, your Honor.

24 (Defendant Mann left the courtroom.)

25 (Mr. Mitchell left the courtroom.)

1
2 THE COURT: How much more cross-examination
3 do you have, Mr. Martin?

4 MR. MARTIN: I still have the rest of his
5 statement and some, what I consider, conflicting claims --

6 THE COURT: Well, I ask you, please, to be
7 careful about that. There was no conflict regarding
8 the cars going out to New Jersey. Whether it was his car
9 or Chester's car really made no difference.

10 MR. MARTIN: Your Honor, I believe there was
11 with Chester Crawford. I may be mistaken, but from the
12 testimony I read, I thought there was.

13 THE COURT: If you think it's inconsistent
14 with the Chester Crawford testimony you go to the Crawford
15 testimony, but you don't need this to prove it.

16 (Jury present.)

17 T E R R E N C E D E W E Y M Y E R S,
18 resumed.

19 THE COURT: You may proceed.

20 MR. MARTIN: Thank you.

21 CONTINUED CROSS-EXAMINATION

22 BY MR. MARTIN:

23 Q Mr. Martin, I believe your last answer said
24 something to the effect that you would pick the stop near
25 a stop sign, is that accurate?

1
2 A Right.

3 Q And did you also say that this was near a
4 hospital, or near the hospital?

5 A No, I didn't.

6 Q Would you look at Page 7, sir, about a third
7 of the way down the page, and there is a question:

8 "MR. FOSTER: Was that near the hospital?

9 "MYERS: Yes."

10 Did you hear that question and make that answer?

11 A Yes.

12 Q And was that so?

13 A But you asked me did I say that and I didn't
14 say that.

15 Q All right.

16 Are you saying that you did not make this
17 answer to Mr. Foster?

18 A I said you asked me did I say it was near a
19 hospital. I said no, I didn't.

20 Q Well, did Mr. Foster say to you, "Is that near
21 the hospital?"

22 A Yes, he did.

23 Q And did you then answer "yes"?

24 A Yes, I did.

25 Q And did you mean by that that it was near the

1 jkmch 8

Myers-cross

2 hospital?

3 A Where we held the truck up, yes.

4 Q Now, can you describe the stop sign and point
5 out on the diagram over there where that stop sign is,
6 Mr. Myers?

7 THE COURT: Do you want to step down, Mr.
8 Myers?

9 (Witness at chart.)

10 A The stop sign was on this street here. Where
11 we got out of Chester's car was here.

12 Q Right, and the I understand you walked back to
13 the hospital?

14 A Right.

15 Q And where was the stop sign as you see it?

16 A The stop sign was up here.

17 Q That would be indicating Nassau Street and
18 Beekman Street?

19 THE COURT: Northeast corner of Beekman and
20 Nassau.

21 MR. MARTIN: May the witness resume the stand.

22 (Witness complies.)

23 Q Is that the point at which you wanted the truck
24 you suggested that that would be the best place for the
25 truck to stop or for you to take the truck?

1
2 A Preliminary, yes.

3 Q When it stopped at the stop sign?

4 A At first, yes.

5 Q And you say the stop sign, would you say that
6 that was next to the hospital?

7 A I remember seeing the hospital in that general
8 vicinity. I don't know if it was next to it or not.

9 Q When you say "general vicinity" --

10 A On either side of that street, of that block.

11 Q When you say "either side of that street,"
12 are you indicating Beekman Street?

13 A Yes, I am.

14 Q And are you indicating Nassau Street?

15 A No, I'm not.

16 Q You are indicating where, which street?

17 THE COURT: Either side of Beekman Street.

18 MR. MARTIN: Yes.

19 Q What point would you say the hospital would be
20 on Beekman Street?

21 A I can't answer that, what point.

22 Q Would it have been in this street here?

23 A I can't answer that, at what point.

24 Q Well, do you know what street the hospital was
25 on?

1 A On either side of Beekman Street.

2 Q And do you know between what streets the hos-
3 pital was on; this being Nassau Street and this being
4 William Street?
5

6 A It would have been between the first street
7 you pointed to, Nassau Street, and down here where it
8 says Gold Street.

9 Q Between Nassau and Gold.

10 And would you say that the hospital runs along
11 this whole block here on Beekman Street?

12 A I don't know.

13 Q In looking at this area, on this side of
14 Beekman Street, between Gold and Nassau, what else was
15 there?

16 A I don't know that, either, sir.

17 THE COURT: You may sit down.

18 Q Do you know if a parking lot was there?

19 A I couldn't tell you.

20 Q Do you know if there were four corners at that
21 intersection?

22 A I can't tell you that.

23 Q Do you know how many corners were there?

24 A I can't tell you that.

25 Q And how many times do you say you saw this

1
2 intersection?

3 THE COURT: Which one?

4 MR. MARTIN: Question withdrawn.

5 Q How many times do you say you rode on Beekman
6 Street between Gold and Nassau?

7 A I'd say twice.

8 Q Twice.

9 And can you tell me when that was?

10 A Not exactly, no.

11 MR. MARTIN: May I have a moment, your Honor?

12 THE COURT: Yes.

13 (Pause.)

14 MR. MARTIN: Your Honor, may I mark these
15 for identification, please?

16 THE COURT: Yes.

17 MR. DIRENZO: Might I suggest that they be
18 marked separately, your Honor, or if they use one
19 numeral or letter --

20 THE COURT: How many are there?

21 MR. MARTIN: I believe about six or seven.

22 THE CLERK: Eight, your Honor.

23 MR. DIRENZO: They'll be easier to follow and
24 describe.

25 THE COURT: Mark them as Defendant's E, and

1
2 then E-1, and so forth.

3 (Defendant's Exhibits E, E-1, E-2, E-3, E-4,
4 E-5, E-6 and E-7 were marked for identification.)

5 MR. MARTIN: Thank you.

6 Q I show you this Defendant's Exhibit E-2 and
7 ask you to look at it and to see if you recognize that
8 street or that area.

9 A No, I don't.

10 THE COURT: May I see counsel at the bench,
11 please?

12 (At the bench.)

13 THE COURT: I see a lot of time will go into
14 these pictures. Can't there be a stipulation as to
15 where the hospital was? Three times he says he doesn't
16 remember exactly what was on both sides of the street.
17 He says he thinks the hospital was between Gold and
18 Beakman.

19 MR. DIRENZO: We'll stipulate, if Mr. Kearney
20 goes along with it, fine.

21 THE COURT: I'm trying to cut down this --

22 MR. DIRENZO: Your Honor, assuming, of course,
23 condition precedent for Mr. Martin.

24 THE COURT: My question is addressed to M.
25 Martin. Several times this witness has now said he

1 jkmoh 13 Myers-cross

2 doesn't remember exactly what was on each side of
3 the street. He has also said he thinks the hospital was
4 on Beekman Street between Gold and Nassau.

5 Now, I see no point going through all these
6 photographs, if all you're trying to cover is a
7 concession as to where the hospital was.

8 MR. MARTIN: There is more than that, your
9 Honor.

10 THE COURT: What more is involved?

11 MR. MARTIN: There's more because there was
12 some testimony by him that he left, that afternoon the
13 incident happened, that he ran up a street, ran around
14 another street, ran around --

15 THE COURT: Ran from Beekman to Nassau, around
16 Nassau to Spruce.

17 MR. MARTIN: This is what he said, but some
18 of these pictures show there is an opening between
19 Beekman and Nassau. I would suggest this is a way of
20 saving time, if it's agreeable to your Honor, still
21 making my point: Let me show him all the pictures at
22 one time, ask him if he recognizes any of them, you know,
23 as being in that vicinity, and if he says no, then maybe
24 we can stipulate that the pictures are of what they are
25 and walk away from them, if that would be agreeable to

Mr. Kenny and to your Honor.

THE COURT: I don't understand the photographs going in.

MR. MARTIN: I think I would certainly like to show the area.

THE COURT: What for?

MR. MARTIN: What for? Because they testified to incidents that happened within that street and I think it's good to have some physical evidence to show the way it is.

THE COURT: Why?

MR. MARTIN: Why? So that the jury and everybody can get an understanding of what's happening in the place, as an aid to the jury, and physical evidence of what happened.

THE COURT: Of what?

MR. MARTIN: Of the area. This is taken from Beekman and William from all directions.

THE COURT: Have you seen these photographs?

MR. KENNEY: I have never seen them, your Honor, and if the witness can't identify them, obviously the photographs have to be selected from the area. I'd certainly stipulate -- when I see them --

THE COURT: Show him the pictures now. Show

1
2 Mr. Kenney the pictures.

3 (Pause.)

4 (In open court.)

5 THE COURT: We are just trying to shorten some
6 of this, if we can. Bear with us.

7 (Pause.)

8 THE COURT: How are we doing? We're trying
9 to save time and it takes you so long to look at the
10 pictures, I doubt we're saving any time.

11 MR. KENNEY: Your Honor, we will stipulate
12 that these are the photographs but we won't stipulate
13 to some of the identifications because the pictures
14 couldn't have been taken from where they indicate on
15 the back of one or two, according to the map.

16 THE COURT: I see.

17 (At the bench.)

18 MR. DIRENZO: That is an old map, anyway.

19 THE COURT: I don't know if that is an old map.

20 MR. HOPPER: That area was very newly changed.

21 THE COURT: The part about Pace College and so
22 forth; he's right.

23 (In open court.)

24 THE COURT: Well, what do you want to do? Have
25 I saved time or just wasted some?

(In open court.)

MR. KENNEY: We will stipulate that these exhibits are exhibits of the area as indicated, and they are E7, E5, E3, E1, and E2.

THE COURT: Now, will you enumerate them in order. Let's start with E1 and go forward. Are they in order now?

MR. KENNEY: Yes. It is E, E1, E2, E3, E5 and E7.

THE COURT: Will you stipulate that they are accurate representations of the area from the position that the picture was taken?

MR. KENNEY: That is correct, as to the streets. Referring to E4, it says "facing north on William Street from Frankfort Street towards Beekman."

THE COURT: Facing north on William Street from Frankfort Street? That can't be.

MR. KENNEY: And this one says "facing north on William Street from Beekman Street towards William Street."

THE COURT: It can't be.

MR. KENNEY: Those are E4 and E6, respectively.

THE COURT: The description is incorrect, Mr. Martin.

MR. MARTIN: I will check with the photographer.

1 Do you want to stipulate to the right direction?

2 MR. KENNEY: Certainly, your Honor.

3 MR. MARTIN: It is a question of the photo-
4 grapher's directions.

5 MR. KENNEY: I will be glad to stipulate.

6 THE COURT: No objection to E, E1, E2, E3, E5
7 and E7 going into evidence?

8 MR. KENNEY: That is correct.

9
10 (Defendant Vincent McCloskey's Exhibits E, E1,
11 E2, E3, E5 and E7 were received in evidence.)

12 MR. KENNEY: They are accepted in evidence
13 with regard to the streets, and not the cars?

14 THE COURT: With regard to the streets and
15 buildings. And they're on, I gather, unless some buildings
16 have been torn down in the last 24 hours. That happens in
17 New York.

18 MR. KENNEY: I would be happy to stipulate
19 where these pictures were taken, but in order to do that
20 I would have to go myself.

21 THE COURT: The fact that Mr. Martin knows that
22 they were not admitted.

23 MR. MARTIN: May I bring the photographer in
24 for a voir dire?

25 THE COURT: You work it out with the photographer

and Mr. Kenney. Let's not bring him in here. We have more important things to do. Let's go on with the questioning of the witness. It's ten after four.

Q Mr. Myers, I show you these exhibits --

THE COURT: E1, E2, E3, E5 and E7, right?

MR. MARTIN: Right, your Honor.

Q I ask you to look at them, please.

THE COURT: He has now looked at them.

Q Mr. Myers, do you recognize that area from those pictures?

A No, I don't.

Q You know none of the pictures at all?

A No, I don't.

MR. MARTIN: Can we clear another thing up while we're at it, and that is, the hospital is on Gold Street, and not on Beekman Street, Mr. Kenney?

MR. KENNEY: If your Honor please, if it is, I will certainly agree with you. It seems to me it runs down Beekman Street.

THE COURT: On Beekman Street?

MR. KENNEY: I think there is an entrance back on Beekman Street and an entrance on Gold Street. I have no knowledge.

THE COURT: All right, we'd better wait for

that stipulation Monday morning.

MR. KENNEY: I am told there are entrances on Beekman Street. I will go over tonight and look at it myself.

Q I'm going back to that statement, Mr. Myers, that you have in front of you, that 27 page statement. When this statement was taken was anybody else with you beside the postal inspectors?

A Geoffrey Mann and a stenographer.

Q Was Geoffrey Mann with you all the time, during all of the time you were being questioned?

A Yes.

Q And, were you there during all of the time when Mr. Mann was being questioned?

A Yes.

Q On page 12, down toward the bottom there is a question by Mr. Foster:

"When was the next time you talked about this robbery and get together with the people in New York?"

Mr. Mann answered, "Chester called both of us three or four times a day when we were back in D.C.

"Myers: He called mine or Geoffrey's house.

"Foster: What did he say on these calls?

"Myers: Things like were we going to still do

1 the job, did we need any money, did I want a New York
2 lawyer to represent me in the marijuana case. He told
3 me that anything that I needed done in Washington, D.C.,
4 he could do it all through the 'family'."

5
6 Now, this period of time that you and Mann
7 indicated that Chester was calling you three or four times
8 a day, what period of time was this?

9 A These were on weekends when we were back in
10 D.C. from New York.

11 Q And that would have been some time in March?

12 A I believe one week elapsed over in April, yes,
13 but the rest of these would have been in March.

14 Q These conversations you had, these telephone
15 conversations that you testified to, all of these were
16 taken with Chester Crawford?

17 A Right.

18 Q And Chester Crawford was talking to you three
19 or four times a day during this period of time? Is that
20 accurate?

21 A Talking to me, no. Calling me, yes.

22 Q Did he call you three or four times a day?

23 A Yes, he did.

24 Q When he called you, did he talk to you?

25 A When he got me. I was not there all the time.

1
2 Q How many times did he get you?

3 A Maybe once or twice.

4 Q Did he, in fact, say those things that you
5 testified he said?

6 A Yes, he did.

7 Q Do I understand that you came to New York and
8 went back to Washington and came up to New York again and
9 then went back to Washington before April? You made two
10 round trips before April?

11 A Yes, I believe that is correct. I'm not sure. I
12 need a calendar for that.

13 (Continued on next page.)
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24
25

Q Excuse me.

A I need a calendar for that.

Q You mean to remember?

A The dates, yes, as far as being March or April.

THE COURT: One problem involved, April 5th fell on a . You are not including the weekend including April 5th?

Q Will you tell me the days that you left New York and went to Washington on both of these occasions?

A The first time I went back to D.C. was Friday night. The second time I went back to D.C., as far as me and Jeffrey, the second time around, I would have a Friday night. There is also other times that I went back to D.C. myself, and you are slightly confusing me, because you are talking about me and round trips, and you remember that could be more or me and Jeffrey, or Jeffrey, me and Harry.

Q I understand you came up with Paul Crawford at one time from Washington?

A Right.

Q Will you tell me and the Court and the jury how many trips you made and when you made them between that first trip on March 2 through April 1 of 1973?

A I made one trip back to D.C. that Friday night

1 that fell on the first time we came up here. That was my-
2 self, Paul and

3
4 Q Right.

5 A I made another trip on the 23rd, I believe,
6 of March. That trip was by myself.

7 Q xcuse me, that trip was --

8 A That trip was by -yself. You want the time
9 when I went back also? After the first time I went back
10 for the weekend, I came back on a Monday. It was myself,
11 Geoffrey and Harry Johnson.

12 Q That was the first time?

13 A No. The first time what?

14 Q I'm trying to find out -- tell me -- was that
15 the second trip or the first trip?

16 A That was the first trip that myself, G offrey
17 and Harry ohnson made.

18 Q Is that after you returned to Washington the
19 first time?

20 A Quite naturally, yes.

21 Q Incidentally, do you remember the date you
22 came back?

23 A I can't remember all the dates precisely, no.

24 Q Can you give me a vague date as to when you came
25 back?

Q Excuse me

A I need a calendar for that.

Q You mean to remember?

A The dates, yes, as far as being March or April.

THE COURT: One problem involved, April 5th fell on a . . . You are not including the weekend including April 5th?

Q Will you tell me the days that you left New York and went to Washington on both of these occasions?

A The first time I went back to D.C. was Friday night. The second time I went back to D.C., as far as me and Jeffrey, the second time around, I would have a Friday night. There is also other times that I went back to D.C. myself, and you are slightly confusing me, because you are talking about me and round trips, and you remember that could be more or me and Jeffrey, or Jeffrey, me and Harry.

Q I understand you came up with Paul Crawford at one time from Washington?

A Right.

Q Will you tell me and the Court and the jury how many trips you made and when you made them between that first trip on March 2 through April 1 of 1973?

A I made one trip back to D.C. that Friday night

1
2 A I am coming as close as I can.

3 THE COURT: He has said he came up on a Monday.

4 Q You left on a Friday; you came up on a Monday?

5 A Yes. The first time, myself, Geoffrey and
6 Harry came up.

7 Q Now, did you then go back to Washington for
8 a second time?

9 A Well, myself, I have already made two trips.
10 I told you, I also went back on the 23rd myself.

11 So, tell me, are you including that in the
12 trip?

13 THE COURT: He doesn't care whether you went
14 by yourself or you went with others. He just wants to
15 know how many times you went, whether you went by yourself
16 or with others.

17 THE WITNESS: All right. The next time I
18 went back to Washington would have been the following
19 Thursday morning, or Wednesday night, whichever you would
20 call it, about 4:00 o'clock in the morning. I came back
21 to Washington on the train. I came back to New York on
22 an airplane that night. That would have been Thursday
23 night.

24 Q Did you come back yourself?

25 A I came back myself.

Q You went down yourself and you came back yourself?

A Yes.

Q And was Geoffrey here in New York during that time?

A Yes, he was.

Q Did there come a time when you went down to Washington?

A That same Friday morning -- well, let's see -- that following Friday from the Thursday night I got back. Well, that Friday night I came back to Washington D.C., all three of us, I, Harry and Geoffrey.

Q So you came back Thursday and went back Friday?

A Yes.

Q When you went back, who did

A Myself, Geoffrey Mann, and Harry Johnson.

Q And then when you came back, you came back all three?

A Right.

Q How many times did you fly -- there are three occasions -- how many times did you fly down to Washington and fly back out of these ?

A I can't give you an exact number of times. I can only exactly two times. There was probably more, but

1 I can only think of two now distinctively.

2 Q What two times?

3 A That is the time when I went to get my
4 registration for my car and, and that is the Thursday
5 night I came back up. ent down on a train and came
6 back by plane.
7

8 Q You went down by train and you came back by
9 plane?

10 A Right.

11 Q Is that a shuttle flight?

12 A Eastern Airlines shuttle, yes.

13 Q Was that the time Paul Crawford mentioned?

14 A Crawford has never been on a plane with me.

15 So I don't know what might have mentioned.

16 Q Did Chester Crawford ever meet you at a plane?

17 A He met me, I think the name of it is LaGuardia
18 Airport. He never met me at the plane.

19 Q How many times did he meet you at LaGuardia
20 Airport?

21 A I can only distinctly -- I remember twice.
22 There might have been more.

23 Q Was any ody with you when he met you? Did he
24 come alone to the airport?

25 A I remember the Thursday nigh that I got back.

1 I know that Geoffrey and Harry was with him. I can't
2 talk about the other times. I don't know who was with
3 him, or if anybody was, in fact.

4 Q There was some testimony dealing with Katz'
5 Delicatessen. Can you describe the terior of Katz'
6 Delicatessen for us?

7 A The only thing I can tell you is it's quite
8 large. The only thing I distinctly remember about it
9 is for every person that comes in there is somebody stand-
10 ing by a booth that gives you a ticket and it had a lot of
11 tables and a lot of waiters.

12 Q Did it have any private booths?

13 A I can't say yes or no.

14 Q You don't know?

15 A I don't know.

16 Q Is there a lot of room between tables, or are
17 the tables close together?

18 A Well, there is enough room for people to sit
19 back to back, if that is what you mean.

20 Q But if you sat back to back you would be close
21 to each other?

22 A Fairly close.

23 Q And whoever was at one table would be close to
24 the other tables?

25 A Yes.

Q There would be tables on four sides of each table usually?

A Well, the tables we sat at, most of the time were against a wall; you couldn't get on both sides.

Q Were there tables up against where you sat against the wall? Or was your table private?

A I wouldn't call it private.

Q Were there any other people, regular customers, of the delicatessen?

THE COURT: Take out the word "regular." How does he know whether they were regular customers?

MR. MARTIN: Question withdrawn.

Q While you were at Katz' Delicatessen did you have occasion to observe people coming in and out of the delicatessen?

A Yes, I did.

Q Did you have occasion to see these people go up to get food or having food served, or whatever was done there?

A I didn't specifically notice it, but that would be the purpose they would have come in there for.

Q At any time while you were sitting in Katz' delicatessen were you seated at tables with other people whom you had never met before?

1
2 A No.

3 Q I would just like to take you to page 14 of
4 this document, and going down toward the bottom of the
5 page, but not quite at the bottom, Mr. Foster asked this
6 question:

7 "Did you go to Washington and return on the
8 same day?"

9 "Myers: Yes, I believe it was a Thursday.
10 I left on a shuttle for Washington D.C. and returned to
11 New York on the last or the next to the last trip."

12 Did you make that answer?

13 A Yes, I did.

14 Q That answer when you made it was that correct?

15 A I don't believe Mr. Foster took it as I gave
16 it. When I told him about the shuttle, I think he meant
17 I went on a shuttle both ways. He was only referring to
18 how I went back when he said shuttle.

19 Q He said, "Terry, did you go to Washington and
20 return on the same day?" And then this is your answer.
21 Did you understand the question at that time?

22 A I understood the question quite clearly.

23 Q Did you understand it at that time?

24 A Yes.

25 Q And did you then answer him, "Yes, I believe

1 it was a . I left on a shuttle for Washington,
2 D.C., and returned to New York on the last or the next
3 to the last trip."

4
5 A I was talking about the next to the last
6 trip then, I was talking about the shuttle. He didn't
7 necessarily want to know how I got down to D.C. How he
8 took it, that is his business.

9 Q Are you now telling us that you did not take
10 the shuttle, but you took a train to Washington one day?

11 A That's what I'm telling you.

12 Q And then the next day you then took the plane
13 back?

14 A No, the same day.

15 Q The same day?

16 A The same day.

17 Q So when you told Mr. Foster about the shuttle
18 trip in the one day, he was mistaken?

19 A I'm not saying he was mistaken. I am trying
20 to tell you how he probably took the question and, because
21 usually when I give an answer I would be quite general
22 with it. He didn't ask me specifically how I

23 C. and, but when he asked me how I came back, I did
24 mention a shuttle. So by logic, he would assume --

25 Q Were you trying to trick him with your answer?

1 A No, I was not.

2 Q You were not?

3 A No.

4 Q So your answers when you gave them to him,
5 you don't answer specific you answer general? Is that
6 correct?
7

8 A Because the questions that he was asking me
9 were general questions; there is very few specific ques-
10 tions in here. He will start with a general question and
11 then go down to minute points.

12 Q Are you doing that with me?

13 A I am being as direct with you as possible, be-
14 cause you are asking me direct.

15 Q You are not giving me general evasive answers?

16 A No.

17 THE COURT: He doesn't say he gave Mr. Foster
18 general, evasive answers, either.

19 MR. MARTIN: I didn't say he did. I am asking
20 him if he is giving me general evasive answers.

21 THE COURT: I suggest you go to the next ques-
22 tion.

23 Q Let me go over to page 16, about half-way down
24 the page, and Mr. Foster is asking this question: "The
25 day you went to Washington, D.C., Terry, and flew back that

1 night, what was that about?"

2 A I don't know what date you are talking about.

3 Q I'm just asking you if you remember that
4 question.

5 THE COURT: He is reading to you from the
6 paper in front of you.

7 Read the question to the witness.

8 Q "Foster: The day you went back to Washington,
9 D.C., Terry, and flew back that night, what was that about?"

10 Do you remember that question?

11 A Yes.

12 Q And do you remember the answer, "Chester gave
13 me \$340 or \$350 to pay for the tags and tickets I had on
14 my car in Washington, D.C. I was supposed to pay for
15 Geoffrey's tickets and tags also, but I only had time to
16 do mine."

17 A Right.

18 Q Did you tell Mr. Foster at that time that
19 you had one down by train and you had flown back?

20 A I don't remember telling him.
21 tell him.

22 THE COURT: I think we better stop. It's
23 twenty-five to 5:00. I will see you Monday morning at
24 10:00. Have a nice weekend.
25

MR. KENNEY: Before the jury is excuse, may I ask the Court to remind them not to go to the scene mentioned.

THE COURT: I have already, but I will repeat it: Please don't go to the scene which has been described to you. You will have to take it from the words you hear from the witness stand and the pictures that have come in evidence.

I also admonish you, again, please don't read the newspapers, specially those portions that say deal with any report of this trial. Do not discuss it with anybody else. Thank you.

(Jury and witness excused.)

THE COURT: How much more do you have, Mr. Martin?

MR. MARTIN: I would say another fifteen or twenty minutes.

THE COURT: What I am frankly looking for, I'm not going to keep this jury over Christmas. We may have to sit next week at night in order to make sure. I certainly am not going to lock them up if they don't agree on a verdict over a weekend or over Christmas. So, if we are not moving any faster, we are going to have to start having night sessions.

1
2 Mr. Kenney, make sure the witnesses are here
3 on time Monday.

4 (Whereupon, an adjournment was taken to
5 December 17, 1973, at 10:00 a.m.)
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WITNESS INDEX

<u>Name</u>	<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>	<u>Recross</u>
Terrence Dewey Myers (Resumed)	574	646 724		
Geoffrey Matthews Mann	720			

EXHIBIT INDEX

<u>Defendant</u>	<u>Identification</u>	<u>In Evidence</u>
Vincent McCloskey		
C	656	
D		670
E	730	735
E-1 through E-7	730	735

UNITED STATES OF AMERICA
vs.
THOMAS JOSEPH CARROLL, et al.

73 Cr 855

New York, December 17, 1973.

Trial resumed.

(In the absence of the jury.)

MR. KENNEY: Your Honor, this subpoena was prepared and served at Mr. Martin's direction on the Postmaster, the Honorable J.R. Strackon, here in New York, on December 11, 1973. The subpoena requests all reports, papers and forms of the United States Post Office Department relating to the death of William Hickey on April 5, 1973, and then it indicates the place where the death occurred, together with any and all records and reports submitted and supplied by postal inspectors Kievit and Brophy, and then it indicates this courtroom.

We submit, your Honor, that this seeks internal reports, memoranda and documents in the government's possession which would not come under the 3500 rule. The government has made representation with regard to Brady vs. Maryland material. We don't think there are any grounds for such a subpoena to be in effect and move to quash it.

THE COURT: He has subpoenaed the two gentlemen in question to testify.

MR. KENNEY: I don't believe so, your Honor. I was asked to have these gentlemen available. He indicated in a letter they are available.

THE COURT: We will have to have any documents they prepared.

MR. KENNEY: We would not object to that part of it, and, in fact, we turned over the documents with regard to Mr. Kievit and as to Mr. Brophy, he will bring any documents with him. He has not prepared any reports with regard to this matter, but the thrust of this subpoena and the request initially are all reports, papers and forms in the Post Office Department.

THE COURT: Why aren't they proper on the trial?

MR. KENNEY: Because they are not evidence, your Honor. It is simply a discovery proceeding at trial. And Section 3500, Title 18, excludes internal documents, as does Rule 16 in discovery, except those that come within 3500.

THE COURT: What are you looking for, Mr. Martin?

MR. MARTIN: What I am really looking for, and perhaps the Court can help me, is to see if there are any handwritten notes or statements by anybody involved,

that is, the people on the truck, any statements taken from the regular guard on the truck, any written statements as to how the matter itself happened from any individual that the Post Office has in its possession that may be inconsistent with something that came in on the stand, whether there are any prior inconsistent written statements.

THE COURT: He already said he has no Brady material.

What about statements from the truckdriver? Handwritten notes?

MR. KENNEY: The truckdriver was Lawrence. He has already testified, and we have turned over all the 3500 material we have regarding him.

MR. MARTIN: The testimony was there was a regular guard who was off that day, and if he has made any statement or has been interrogated, it may be relevant to the case.

THE COURT: He was not there?

MR. MARTIN: But they certainly must have questioned him, and if he has any knowledge of it or made any statement in connection with this case, conceivably -- what I might suggest to your Honor as a fair and reasonable way of doing it, perhaps these documents and records, if any,

1
2 can be exhibited to your Honor.

3 THE COURT: He already said he has none. You're
4 coming down to the man who wasn't there. What can he tell
5 you about what happened there?

6 MR. MARTIN: As a far-out theory, if, in fact,
7 he were in on it. I don't know this and I have no firm
8 evidence to believe it. But I am sure the Post Office
9 must have investigated this man, if there is any tie
10 between him and any of the defendants.

11 THE COURT: Do you have any statement from the
12 fellow that was supposed to have been the regular guard
13 on the truck?

14 MR. KENNEY: Not that I know of. We can check
15 and see.

16 MR. MARTIN: I would suggest if it is possible,
17 if there are any documents that Mr. Kenney is doubtful
18 about, he can show them to your Honor.

19 THE COURT: He has already told you he has turned
20 over all Brady material.

21 MR. KENNEY: The Post Office has conducted a
22 thorough investigation to determine whether there was any
23 postal employee or so-called inside man involved in this
24 case, and hasn't come up with a scrap of evidence to support
25 that. So we simply don't have any statements which say

1
2 that somebody might have been involved.

3 MR. MARTIN: They may not say it, Mr. Kenney,
4 but we have the right to look at them or the Court can
5 look at them.

6 THE COURT: If you have any statement from the
7 man who was supposed to be on the truck, I will look at it.
8 The rest of the motion is granted.

9 We are waiting for an alternate juror. I think
10 we are going to sit until 6.30. You want to get through
11 with this case before Christmas?

12 MR. DIRENZO: I'm not happy to hear it.

13 THE COURT: If cross-examination is going to take
14 as long as it has, it's the only way we can do it.

15 MR. DIRENZO: I have one little personal problem.
16 Judge Fraimen has indicated that he will want me to take
17 care of a sentence before him in a murder case I recently
18 tried, where the defendant was convicted of manslaughter,
19 and he said I should make myself available either today
20 or tomorrow and he will try to make it at 10 o'clock in
21 the morning or 2 o'clock in the afternoon.

22 THE COURT: Do you want to make it 2 o'clock this
23 afternoon?

24 MR. DIRENZO: If he wants me there at 2. The
25 only reason why I mention it is we don't want to lose any

1
2 time here.

3 THE COURT: If you want to go over at 2 o'clock
4 this afternoon or 2 o'clock tomorrow, do so. How about
5 9.30 tomorrow?

6 MR. DIRENZO: I had even suggested to him I
7 would get there, not knowing before time, I said I would
8 make myself available at 4.30 or 5 o'clock.

9 THE COURT: We are going to have to go to 6.30.

10 MR. DIRENZO: If we are going to have a night
11 session --

12 THE COURT: I don't want to have a night session
13 in the sense of sending the jury out to dinner and have it
14 come back. That will be too late. But I believe if we
15 sit here until 6.30, that will help. So we are going to be
16 sitting until 6.30 every night.

17 (Jury in box.)
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2 T E R R E N C E D E W E Y M Y E R S, resumed.

3 (Murray Mogel, counsel for Mr. Myers, took
4 a seat next to the witness chair.)

5 THE COURT: You may proceed, Mr. Martin.

6 MR. MARTIN: Thank you.

7 CROSS EXAMINATION CONTINUED

8 BY MR. MARTIN:

9 Q Mr. Myers, when was the first time that you
10 mentioned Harry Johnson's name in connection with this case?

11 A I can't remember the date.

12 Q Was it when you were first arrested?

13 A No.

14 Q Was it some time in June?

15 A No.

16 Q Was it some time in September, approximately?

17 A That is possible.

18 Q And that was up here in New York after you had
19 been brought here to New York?

20 A Right.

21 Q Before that you never told anybody that Harry
22 Johnson was involved in this case?

23 A The reason I never mentioned his name because,
24 as far as I was concerned, wasn't.

25 Q Was this same man, Harry Johnson, the man who

came here with you on these various times?

A Yes, sir.

Q And you didn't tell the postal inspectors he was there?

A No.

Q You testified that you met Jack, who told you about a payroll he wanted you to take over?

A Yes.

Q And that Jack you subsequently found out was John Turner?

A Yes.

Q When did you first meet him?

A I first formally met him the morning of the 22nd of March.

Q That is the first time you had seen him?

A No.

Q Had you seen him before that?

A Right.

Q When had you seen him before that?

A The day before.

Q And he told you about this payroll robbery?

A Yes.

Q Did he ask you to do the payroll job?

A It was not in the form of a question whether I

1
2 would do it or not; it was supposedly a test.

3 Q Isn't it a fact that Turner said to you that he
4 would want you to help in a robbery of a former employer
5 of his?

6 A No, he didn't.
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Q There came a time when you testified about splitting up, supposedly, \$8000 that you supposedly got, do you remember that?

A Yes.

Q And you testified that you took half?

A Right.

Q And you testified that you gave the rest of it to Jack, is that correct?

A Right.

Q And that this was in a motel some place.

A Right.

Q And Jack led you to the motel? That question is withdrawn.

What did you do with the money?

A What?

Q The \$4000 which you got, what did you do with it?

A That money was split between myself and Jeff Mann.

Q And how much did you take?

A I believe it came out to \$2100 apiece.

Q \$2100 apiece?

A Yes.

Q Did you give any money to Paul Crawford?

A Yes, I did.

Q How much did you give to Paul Crawford?

2 A Three, four hundred. I am not sure.

3 Q Did you give any money to Chester Crawford?

4 A Yes.

5 Q How much?

6 A Between me and Geoffrey we gave him, I think,
7 \$800.

8 Q And what did you do with the balance of the money?

9 A I spent it.

10 Q How long did it take you to spend it?

11 MR. KENNEY: Objection.

12 THE COURT: Sustained. I sustained the objection.

13 Q Did you testify that Jack told you --

14 THE COURT: Page and line number.

15 Q Page 593. Line 5.

16 "Q Was anything else said?

17 "A Jack told me he would get the chloroform and
18 Chester said he would see me Monday."

19 Did Jack in fact get the chloroform?

20 A He didn't get chloroform. He got ether.

21 Q And did he give you the ether?

22 A Yes, he did.

23 Q Page 594, Line 24:

24 "Q What was said?

25 "A Well, as I was stating, Geoffrey said that him

1 and Harry were trying to come to a business agreement con-
2 cerning some type of business that Harry was trying to get
3 in and that he wanted Harry to come back to New York with
4 us. He didn't quite state what for, and I didn't ask
5 him, but I told him it was all right with me."

6
7 Do you know what kind of business Harry came to
8 New York to get involved in with Chester?

9 A It was not my understanding that he came to
10 New York to get in any type of business with Chester. The
11 conversation --

12 Q What did you mean by that question you just
13 asked about Harry's business in New York?

14 THE COURT: Wait a second. Your answer, Mr.
15 Myers, was that Jeffrey told you that Harry and Jeffrey were
16 trying to come to a business agreement.

17 Now, the question as I understand it, do you know
18 what that business agreement was?

19 THE WITNESS: I could only assume, sir.

20 THE COURT: Well, wait. If you only assume, we
21 are not interested. Do you know?

22 THE WITNESS: Not specifically, no, sir.

23 THE COURT: All right.

24 Q Did they talk to you about it generally?

25 A Generally, yes.

Q Can you tell me generally what Geoffrey and Harry said about this business agreement?

A Harry was an illustrative artist. Or a commercial artist, and he has some hope of getting into some kind of art corporation or something in Washington. I believe, I think, I am not sure, Geoffrey was going to assist him in this.

Q Is that what they came to New York for?

THE COURT: No. He said no. He has already said no to that.

MR. MARTIN: I am asking him if for a fact that is what it was.

Q There came a time, as I understand it, when you got some money from Chester to go down to Washington to pay some tickets, is that correct?

A Yes.

Q Do you remember the time of the day, what period of time between March 21 and April 3, this was?

A I believe it was on a Wednesday night.

Q And can you tell us the sequence, how you went about getting that money from Chester? Did you tell him what you needed it for? Tell us what happened about the money.

A There had been some discrepancy about certain

things happening concerning this holdup, and my license, my tags, would be voided or dead that weekend. I told Chester I wasn't going to take a chance to be caught in New York with their tags. Also, Geoffrey had to pay for his. So we were already led to understand that anything we needed monetarily, their so-called family would take care of it. So Chester told me that don't need to worry about it, all you had to do was see a couple of people and get the money for us. (All he had.)

Q Did you have any of the money that you said you got from a payroll holdup at that time?

A No, I didn't.

Q That had all been spent by then?

A No, it wasn't.

Q What had you done with that money?

A Some I had, some I sent home.

Q You send it home by money order?

A Right.

Q To whom?

A My wife.

Q How much did you send home to your wife?

A I can't be sure. I would say six or \$700.

Q And when was that?

1 A That would have been the same day of the
2 robbery.
3

4 Q Isn't it a fact that you said you went down
5 to Washington directly the day of the Washington robbery,
6 the supposed robbery?

7 A No, I didn't.

8 Q You didn't say that?

9 A No, I didn't.

10 MR. MARTIN: May I have a few more moments, your
11 Honor?

12 (Pause.)

13 Q There was some testimony, as I recollect it,
14 by Chester Crawford; I think the day that you testified
15 to was April 3rd and I think he said April 5th. Anyway,
16 it was the day this killing took place that you said you
17 fired the gun.

18 There was some testimony by Chester Crawford
19 that you in fact visited an apartment on Houston Street
20 that day and went with them at Katz' Delicatessen. Is that
21 a fact?

22 A Apparently I did visit somebody on Houston
23 Street, but I returned, or I should say I came, to Katz'
24 afterwards.

25 Q What time did you visit these people on Houston

Street?

A I would say that afternoon. I don't know the time.

Q What apartment was it? What house? What address?

A The floor was the 13th floor. The apartment is very easy to find. It is the only one to the right. I don't know the number.

Q Who was it that you visited?

MR. KENNEY: Objection, your Honor.

THE COURT: Sustained.

MR. MARTIN: May we approach the bench, your Honor?

THE COURT: No.

Q How many people did you see there in that apartment?

THE COURT: I can't see the relevance to this at all.

MR. MARTIN: If your Honor please, I am trying to ascertain witnesses who may place him away from the crime. He testified before that he had been in certain places. We have other witnesses --

THE COURT: Next question, Mr. Martin.

MR. MARTIN: I move for a mistrial, if your

Honor please, it is highly prejudicial to the defendants.

THE COURT: Denied.

Q You testified, as I recollect, that after this incident happened, you ran up Beekman Street to Nassau Street, is that correct?

A I don't know the name of the streets, sir.

Q Will you point it out to us, please? Will you show us the route you ran after you said that you left the scene?

A I made the first right turn here and the first right turn here (indicating).

Q And you came down Spruce Street, you said? How far did you come when you made the right-hand to second --

THE COURT: For the record, he said he turned right from Beekman onto Nassau, and he then turned right from Nassau onto Spruce.

Mr. Myers, you are now on Spruce Street, and that is the street to which the counsel is addressing his question.

Q Can you tell us now how far you ran down Spruce Street in that direction that his Honor just described?

A To the best of my recollection, almost the entire block.

Q Would that be down this area some place (indicating)?

1 A Yes.

2 MR. MARTIN: Could I have an X, please?

3 Q Will you kindly mark on there the area where
4 say you caught up to a pickup truck?

5 THE COURT: Let's use a Y, because he has several
6 X's on there already.

7 (Witness marks.)

8 Q Thank you. This first gun that you used, that
9 you supposedly used on this Secaucus job, what did you do
10 with that gun?

11 A I returned it to Chester.

12 Q And when did you return it to Chester?

13 A The same day.

14 Q This other gun that you had, that you supposedly
15 used on this mail truck thing, what did you do with that
16 gun?

17 A I returned that to Chester.

18 Q When did you return that to Chester?

19 A The night after the postal truck.

20 Q And where did you return it to him?

21 A Outside of the second bar that we was.

22 Q And who else was there when you returned the
23 gun to him?

24 A You mean who saw me give it to him?

1 Q Was anybody else there when you returned the
2 gun to Chester?
3

4 A There were several people there. I don't know
5 who saw me give it to him.

6 Q Do you know who they were?

7 A Myself, Geoffrey, Harry, Chester, I believe
8 everybody else was inside the bar.

9 Q And they saw you return that gun to Chester?

10 A No, they didn't.

11 Q Did you ever meet a man named Larry during this
12 course of the events connected with this case?

13 A If I met him, I don't remember him.

14 Q Did you ever meet a man named Frank whom Chester
15 testified he got \$400 from?

16 A I remember seeing the gentleman. I was not
17 told his name.

18 Q Did you ever meet a man named Vinnie?

19 A No, I don't.

20 Q Or Vince?

21 A No.

22 Q Or Vincent?

23 A No, I don't.

24 Q On one of those cards you used the name Smith
25 to register into a motel, did you not?

1
2 A Yes, I did.

3 Q Why did you do that?

4 A I got tired of using my own name.

5 Q When you say you first met a man by the name
6 of Mike, can you describe his weight, his height, his general
7 characteristics as you remember him when you met him?

8 A Yes, I can.

9 Q Will you please?

10 A He was short, slender built and well-dressed,
11 Caucasian.

12 Q How was his face? Was it pudgy, was it tight,
13 thin? Do you have any recollection?

14 A Slender built facial-wise, body-wise, etc.

15 Q This man Frank, how was he built?

16 A I don't know who you are even referring to by
17 Frank.

18 Q You referred to a man named Frank that Chester
19 got \$400 from that you said you saw.

20 A The man that Chester received the money from?

21 Q Yes.

22 A Approximately the same physical build. He was
23 wearing, I would say, an expensive suit.

24 Q When you say the same physical build, you mean
25

1
2 slim, small, short, is that what you meant?

3 A Right.

4 Q There was testimony about a police car on the
5 scene of the accident that somebody said there was a police
6 car there I want to change the route. Do you remember that
7 testimony? Do you remember the police car?

8 A Yes, I do.

9 Q How many times did you see a police car on that
10 scene as you went through it? Once or twice?

11 A This was the first time I had seen one. I don't
12 know about anybody else.

13 Q And was it the only time you had seen one?

14 A Right.

15 Q Can you tell us on the chart where you saw that
16 police car, please?

17 A Over here (indicating).

18 Q Will you mark it, please?

19 A What would you like me to mark it?

20 Q Why don't you mark it "P", for police, if you
21 will.

22 A (Marking.)

23 Q Isn't it a fact, Mr. Myers, that you worked in
24 Washington as a night manager for a takeout food shop?
25

1
2 A Yes, I did.

3 Q When was that?

4 A That has been an off and on job.

5 Q Didn't you tell me the other day that you weren't
6 employed from 1968 until the present time?

7 A Well, as it wasn't a full time job and as I
8 didn't pay any tax, I don't count it as a job.

9 Q You didn't pay any tax?

10 A No, I didn't.

11 MR. MARTIN: No further questions.

12 THE COURT: Mr. Direnzo.

13 CROSS-EXAMINATION

14 BY MR. DIRENZO:

15 Q Good morning, Mr. Myers. How are you doing?

16 My name is Direnzo, and I represent Mr. Carroll.

17 You know Mr. Carroll, don't you?

18 A Yes, I do.

19 Q When did you first meet him?

20 A I first met him on the 21st of March.

21 Q And where is it that you saw you met him on the
22 21st day of March?

23 A In a bar in New Jersey.

24 Q And were you introduced to him at that time?
25

2 A Yes, I was.

3 Q And you were introduced to him, you say, by
4 Mr. Chester Crawford?

5 A Yes, I was.

6 Q And did he say, "Mr. Myers, Terry, I want you
7 to meet Mr. Thomas Carroll"?

8 A No, he didn't.

9 Q What did he say with reference to the formal
10 introduction, if there was one?

11 A The only name he used as far as introduction
12 was Tommie.

13 Q Tommie. In other words, you knew Mr. Carroll's
14 first name the very first time you met him, the 21st of
15 March, correct?

16 A Yes, I did.

17 Q Then you met Mr. Carroll on some occasion sub-
18 sequent to the 21st day of March?

19 A Yes.

20 Q How manytimes in all would you say that you met
21 Mr. Carroll?

22 A I would say several. I couldn't place any number
23 on it.

24 Q Would you say two or three times?
25

2 A Yes.

3 Q And on each of the occasions that you say you
4 met Mr. Carroll, were you in conversation with him?

5 A Not all the time, no.

6 Q And on each of the occasions when you did meet
7 and speak to him, it was Tommie, is that correct?

8 THE COURT: You mean did he address him as Tommie?

9 A When I speak to someone, I don't necessarily
10 use their name, no.

11 Q I see. But on each of the occasions where you
12 either saw or spoke to him, you knew it was Tommie?

13 A Yes.

14 Q No doubt about that?

15 A No.

16 Q Now, when and where was it that you say, after
17 arriving in New York, that you got the first format or plan
18 of this robbery?

19 A Do you mean first knowledge?

20 Q Yes.

21 A That would have been the first time I was with
22 Chester.

23 Q That would be on March 21st?

24 A Yes.

2 Q And he gave you that information while you
3 were together with whom?

4 A Chester, Paul and myself.

5 Q Tommie wasn't there.

6 A No, he was not.

7 Q Mike wasn't there, correct?

8 A No, he was not.

9 Q And was it on this occasion that you were told
10 it would be a mail truck robbery?

11 A I don't believe Chester mentioned that. I am
12 not sure, but I don't think he did.

13 Q Was it on this occasion, only if you remember,
14 Mr. Myers, that you were told that these men in New York
15 could not show their faces because they were hot?

16 A Chester did tell me that, yes, sir.

17 Q He told you that. And in the parlance of a stickup,
18 when we say a man's face is hot, he would not be able to
19 show his face or should not show his face at the scene of
20 the commission of a crime, correct?

21 A Right.

22 Q And that was the reason why you gentlemen were
23 called in to New York, because your faces in New York were
24 not hot?

25 A Correct.

Q Is that the way you understood it, sir?

A Yes, sir.

Q Incidentally, is it a fact, as you say, that you were told that this would be a five-man job?

A I wasn't told it would be a five-man job. I was told it would be a five-man split.

Q A five-man split?

A Yes, sir.

Q Never anything about a five-man job?

A No.

Q A five-man split stands firmly in your mind as you testify here today, correct, sir?

A I was told the money would be split five ways, yes, sir.

Q But the expression "This will be a five-man job" was never used, is that your answer, sir?

A I am not saying that expression was never used.

Q Well, did you ever, in reporting the conversation that you had with Mr. Chester, state to anyone that this was going to be a five-man job?

A Unless I was just assuming by the split that was brought up, I can't remember, but it is possible. I can't see anybody doing something for nothing, so --

Q Mr. Myers, there has been a lot of questioning

1 of you concerning Defendants' Exhibit C marked for identi-
2 fication, the statement, the sworn statement that you gave
3 to the postal inspectors in Washington, correct?
4

5 A Right.

6 Q And they asked you questions and you answered
7 those questions, correct?

8 A Right.

9 Q And you answered those questions truthfully,
10 correct?

11 A As truthfully as I could, yes.

12 Q Well, you didn't intentionally lie or leave any-
13 thing out, correct?

14 A I did my best.

15 Q As a matter of fact, after making the statement
16 and reading the statement, you swore to the truth of
17 everything contained in that statement, correct, sir?

18 A Right.

19 Q You have had occasion to read Defendants' Exhibit
20 C marked for identification, correct, sir?

21 A Yes, I have.

22 Q And I think you told us you read it quite
23 exhaustively or extensively, I don't recall the exact word --

24 A I don't remember saying that, sir.

25 Q Did you ever say that you were shown this exhibit

so that you could study it?

A I don't believe I said that either, sir.

Q And you never said that from this witness chair right?

A I don't believe so, no.

Q Now, incidentally, with reference to that particular statement, you started to make that statement at 11:30 at night, correct?

A You would have to ask the postal inspectors about that. I am not --

Q I beg your pardon?

A I am not aware of the time.

Q Well now, let's see if this refreshes your recollection.

MR.KENNEY: Objection, relevance, your Honor.

THE COURT: Overruled.

Q I invite your attention to June 7, '73, --

A Right.

Q Does that refresh your recollection, Mr. Myers?

A It is there, so it must be right.

Q And this statement consists of some 27 pages, right?

A Right.

Q And when this statement was ready for you and

1 Mr. Mann for signature, you affixed your signature to
2 it at 8:45 A.M. the following morning, correct?

3 A If that's the time that is on it, yes, sir.

4 Q Will it be necessary for me to show you this,
5 Mr. Myers?

6 THE COURT: He says if it is on there it is
7 correct.

8 MR. DIRENZO: It is on there.

9 THE COURT: All right.

10 Q So that between the time that the opening question
11 was put to you and the last answer was given by you or Mr.
12 Mann and your signature was affixed to this document,
13 more than nine hours went by, you were questioned all night,
14 correct?

15 A I guess so.

16 Q And at the time, on June 7, 1973, that you
17 made this statement, did you know Mr. Carroll's first name
18 to be Tommie?

19 A No.

20 Q You did not?

21 A I remembered it as either Tommie or Tony.
22 That is what I told the postal inspector.

23 Q Didn't you tell us only a moment ago, when I
24 first began to ask you questions as to when you first knew
25

Mr. Carroll's first name to be Tommie, didn't you say you knew that on the 21st of March?

A Yes, I did.

Q But when you made the statement on June 7, you didn't know whether his name was Tommie or Tony?

A Yes.

Q You had not gotten his name, I take it, in the meantime?

A Sir, after my dealings with them and after being put in the position that I was put in, and after being set up like I was, and after killing a man, I tried to forget all of them.

Q You tried to figure out --

A Yes, I did. I tried to forget all of them.

THE COURT: He said he tried to forget, not figure out.

MR. DIRENZO: I see.

Q And in trying to forget, were you able to make a mental erasure of the first name Tommie?

A I might have mentally erased a lot of things.

Q I see.

Incidentally, before making this statement, that started, you said, at 11:30 at night, you had spoken, had you not, to the postal inspectors before they formally

1 put the questions to you to which questions you made
2 answers, is that correct?
3

4 A Right.

5 Q You were taken into custody when?

6 A Apparently on June 7.

7 Q On the same day?

8 A Yes.

9 Q Or was it before June 7?

10 A I am quite sure you have some records you can
11 refer to. I --

12 Q I am sorry. I didn't mean to interrupt you.

13 A I can't be precise. I thought it was the 5th,
14 myself. But the statement was made on the same day that
15 I was picked up. So --

16 Q The same day?

17 A -- it has to be correct.

18 Q What time were you picked up that day?

19 A Some time in the evening.

20 Q Early evening?

21 A About, I would say, between 3:30 and 5:00 o'clock.

22 Q Now, whether it was 3:30 or 5:00 o'clock --
23 if it were 3:00 o'clock, you were questioned by postal
24 inspectors for at least eight hours before you made the
25 statement?

1
2 A No.

3 Q If you were picked up at 5:00 o'clock, then you
4 were questioned for about six hours before you made the
5 formal statement?

6 A No, I wasn't.

7 Q Incidentally, prior to making any statement,
8 whether it was reduced to writing or not, did anybody make
9 a promise to you that if you made full disclosure, "We
10 will see what we can do to help you," or anything like
11 that?

12 A I was told that if I cooperated with them that
13 it would be brought to the attention of the district attorney.

14 Q So that from the time you were taken into custody
15 and the agents spoke to you, they made you know that what-
16 ever information you gave to them in this investigation,
17 they would see that the proper authorities received the
18 information of your cooperation, correct, sir?

19 A Yes, sir.

20 Q Now, Mr. Myers, inviting your attention to testi-
21 mony you just gave a moment ago concerning the fact that
22 you say this was going to be a five-man split, was this
23 question put to you by Agent Foster and did you make the
24 following answer, and this would be on Page 6, toward the
25 top of the page, question by Mr. Foster.

1 "Q In other words, tell us where the job was
2 going to take place and how many people were involved."
3

4 You recall that question, don't you? Did you
5 make this answer:

6 "A The job itself involved five people."

7 Did you make that answer to that question?

8 A If it is there, I did.

9 Q And in making that answer to that question, you
10 understood that to mean, y ou are now saying to this jury,
11 it was a five-way split, right?

12 A Yes.

13 Q But the specific question put to you was --

14 THE COURT: Now wait a second. Don't argue
15 with him. Put the question. He is giving you the answer.
16 Next question.
17
18
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Q In other words, this was not a five-man job, but a five-way split?

A What are you trying to say? I don't understand what you are trying to say.

Q I am asking you the question, Mr. Myers. You are saying it was a five-man split and not a five-man job? Is that your answer today?

A Whatever I say was my answer.

THE COURT: He is asking you today, was this a five-man job or a five-man split?

THE WITNESS: The money was going to be split five ways. I will say that again, as I said it before.

Q Mr. Myers, in reading this statement over did you feel you might have trouble answering that question?

A No, I didn't.

Q You were on the job, weren't you?

A Yes.

Q Mr. Jack Turner was in on the job? Correct?

A He was supposed to have been in.

Q That would be man No. 2? Right?

A Right.

Q Chester Crawford was to be in on the job?

A He was supposed to have been in.

Q Is that man No. 3?

A Well, really, if you want to be technical about it, Chester had no operational part in it, except to pick us up. So I wouldn't want count him, no, I wouldn't.

Q Harry Johnson?

A He had no operational part.

Q He had nothing to do with the job at all?

A Right.

Q But was he there?

A Yes, he was.

Q He would be the fifth man?

A No, he wouldn't.

Q By the way, just so that there be no mistake, let me ask you this question, from the same page, page 6, did Mr. Foster put this question to you and did you make the following answer:

"Foster: When you say five people, you mean five people at the scene? Is that correct?

"A Right."

Is that correct?

A If it is there I said it.

Q When he said five people at the scene, is that the way it is supposed to be?

A I will say, sir, that I was counting the people that had an operational part in it. So to me that would

be five people. Anybody else, as far as I am concerned, would be inconsequential or unimportant.

Q How much schooling have you had, Mr. Myers?

A How far did I go in school?

Q Yes.

A I went to the 8th grade.

Q Is it fair to state that you have a fairly good command of the English language?

A I can make myself understood, if that is what you mean.

Q Definitely. And is it fair to state that you understand a question when it is being put to you?

A Yes, I do.

Q You don't answer a question unless you understand the question?

A Right.

Q There have been instances when you didn't understand the question and you said you didn't understand it?

A Right.

Q So that when Mr. Foster was talking to you, you understood the question? Correct.

A Right, and I also understood his point of view.

Q You are also a mindreader?

A No, but I can understand him not knowing the

type of world I live in, because of what he is and what I am.

Q What kind of a world do you live in?

A I live in an illegal world. He does not.

So there is a lot of things about illegal he doesn't understand or can't comprehend, no more than anybody else who does legal things.

Q You do know that Mr. Foster being a postal inspector is a law-enforcement agent?

A He is the same as police, as far as I am concerned, and unless he walks in somebody's shoes he can't completely understand their world. I don't care how long he has been a law-enforcement officer, as you say.

Q He would be at least generally conversant with people who are in the illegal world?

A Generally, yes.

Q Tell me, what does the question, "How many men would be at the scene?" now mean to you?

A The same thing it meant now, how many men at the scene were going to be doing something.

Q Is it fair to state that "at the scene" would mean the place where the illegal act was to occur, the scene of the crime?

A Right.

Q And there were to be five people there? Correct?

A Right.

Q Now, knowing what you know about activities in the illegal world, and recognizing that in receiving your preliminary instructions, your very first instructions, you were told that the men you were dealing with could not show their faces?

A Right.

Q You tell us that these men who are not supposed to show their faces at one time or another were in the Wall Street area around the scene of the crime?

A Right.

Q And they were showing their faces?

A Yes.

Q In the illegal world isn't that unusual?

A No, it is not.

Q Incidentally, did you tell us that this man, Tommy, or Tony, was an Italian dude?

A To me, he was, yes.

Q When you saw, at least, when you say you saw Mr. Carroll, did you in your own mind, your mind only, satisfy yourself that he was of Italian extraction or origin?

A No. When it comes to Caucasians, you all look the same to me.

Q All Caucasians look alike to you?

A Right.

Q You could not distinguish or attempt to distinguish the nationality of one Caucasian from another Caucasian?

A Unless I could tell them specially, I couldn't. I don't make no ready descriptions.

Q Then you said something about Chester telling you that this was a family organization or that somebody was a Capo?

A Yes.

Q What does Capo mean to you, so that this jury knows?

A In my understanding of the word, a Capo is a leader of a family or a segment of a bigger family.

Q And that Capo is the abbreviation of the name Caporegina?

A That I don't know.

Q And the Capo or organization or family is alleged to be the Mafia?

A Yes.

Q And after meeting Tommy Carroll, was he the man that you claim or Chester claimed was the Capo?

A He is the gentleman that Chester told me was the Capo, yes.

Q Did he ever tell you that Mr. Carroll was at the head of the Irish Mafia? Did Chester ever tell you that?

A No.

Q By the way, didn't you also say that Chester told you -- he is not Caucasian -- that he was part of the family?

A Yes.

Q And you are also telling us that Chester said he was part of the Mafia?

A He never told me he was part of any Mafia, no.

Q He said the North Carolina Mafia?

A No.

Q The questions that were being put to you were being recorded on a stenotype machine? Is that correct?

A I believe that is what it was.

Q Well, just like our very efficient court reporter here today, somebody was taking it down?

A Right.

Q Then after all of these questions were put to you and you made answers to those questions, the questions and the answers were all set forth on Defendants' C for identification, the 27-page statement? Correct?

A Right.

Q And after it was completed you were shown page

by page that statement?

A Right.

Q When I say "you," that meant both you and Mr. Mann?

A Right.

Q You read every question?

A Correct.

Q You read the answers?

A Right.

Q And where necessary you made some changes?

A Right.

Q You initialed the changes that you made?

A Right.

Q There were instances where a number of corrections which you made -- and I will show them to you shortly, where the word "Chester" appeared, and it was stricken, and you substituted the name of Tommy?

A I made no such changes.

Q You did not?

A I made no such changes.

Q Well, did anybody make such a change and you initialed it?

A You have to speak to the postal inspectors about that.

Q Well, I will show you in a little while and then you can tell me.

By the way, wherever these changes were made and whenever and wherever, you initialed the change?

A Right.

Q Were those initials placed on that document before you signed and swore to that statement?

A Yes.

Q It was not done at any other time? It was done that very day before you affixed your signature to that page? Is that your testimony?

A Right.

Q I will go to something else and I will come back to the changes.

You tell us that some time after you were introduced to this proposition, this stick-up of a mailtruck, that Chester told you that you had to be tested, I think was the word?

A Correct.

Q And so that we understand one another, you had to be tested to determine your competence, your proficiency as a stick-up man? Correct?

A Right.

Q In other words, you had to pass the proficiency

test before you could be hired for the mail theft?

A Right.

Q Incidentally, you passed that test, didn't you?

A I would like to think so.

Q Pardon me?

A I would think so.

Q With a gold A?

A I didn't know you got marks and things like that, but you can affix one if you want.

Q You were satisfied you passed? Nobody got hurt? The money was taken?

A Right.

Q There is no doubt in your mind that the Secaucus robbery was incidental to and part of the mail robbery?

A I don't understand what you mean by "part of"?

MR. DIRENZO: I withdraw the question.

Q In other words, as a condition precedent to you committing the mail robbery, you had to prove your capabilities in the Secaucus robbery?

A Right.

Q So that on June 7 -- let's take that date -- or June 5th, you had already known at that time, in June, the part of the whole plan was that you had to prove yourself in an independent robbery, separate and apart from

2 the mail robbery?

3 A Right.

4 Q It is a fact that Defendant's Exhibit C marked
5 for identification is typed single-spaced, the answers
6 are single-spaced, is that correct?

7 A I would imagine so.

8 Q Well, it is a fact? You have seen it?

9 A Right.

10 Q I am not trying to trick you.

11 In that entire 27-page statement did you ever
12 say anything to Mr. Foster or anybody else that in order
13 to prove your mettle you had to show that you could commit
14 the Secaucus robbery?

15 A No, I didn't.

16 Q They never asked you? Right?

17 A That is right.

18 Q That is why you never told them?

19 A That is also correct.

20 Q But they did ask you to explain to them the
21 entire job?

22 A Right.

23 Q Was the Secaucus caper part of the job?

24 A I don't see how you can make that claim.

25 Q In other words, your answer is that was not part

1 of the job?

2
3 A When they came to arrest me they told me I was
4 arrested for murder and hijacking a postal truck. I
5 do not hope that you would think I would sit there and
6 tell them of something else I have done with the greatest
7 of ease.

8 Q I am not hoping you would do anything. I am
9 only interested in what you are saying. That is my only
10 job.

11 A Right.

12 Q And you are now saying that the Secaucus job
13 had nothing to do with the mail job?

14 A In a physical sense, no, sir; mentally, yes.

15 Q You say mentally, yes?

16 A Yes.

17 Q I am going to ask you a question I never ask --
18 why?

19 A As was stated before, we were to be tested.

20 Q Tested?

21 A That is why this Secaucus robbery was done.
22 Physically, there is no way you can connect the robbery
23 on March 22 with another attempted robbery on April 5th.
24 I don't know how you could do that.

25 Q You could not do that physically?

1 A No.

2 Q You can't do it mentally, either?

3 A Yes, you can.

4 Q If you want to force yourself to do it?

5 MR. KENNEY: Objection, arguing with the witness.

6 THE COURT: Sustained.

7 Q Well, in this little testing operation you
8 approached the man who had the payroll?

9 A Right.

10 Q And I think your testimony was that when you saw
11 him and after Jack told you, "There is the guy; he is just
12 coming out of the bank," --

13 A Right.

14 Q -- you got on one side and Mann on the other and
15 pointed a pistol at him?

16 A I put it in his back.

17 Q What did you say?

18 A I put the pistol in his back.

19 Q What did you say to him?

20 A I said, "Freeze."

21 Q "Freeze?" Wasn't that the very same expression
22 you used on Mr. Hickey before you killed him?

23 A Yes.

24 Q I take it you have used that word "freeze" on a
25

number of occasions, correct sir, without telling me where or when? Did you use that expression on a number of occasions?

A I wouldn't know about that.

MR. KENNEY: Objection.

THE COURT: Sustained.

Q Well, in any event, in performing this little test to prove meritorious service you got eight or nine thousand dollars?

THE COURT: He didn't say eight or nine thousand.

Q The fruits of the crime, the stick-up, yielded eight or nine thousand?

A Somewhere between there, yes, sir.

Q And I think you and Mann, you say, divided the proceeds fifty-fifty?

A No.

Q Well, you got one-half of the eight or nine thousand? Was it four thousand, forty-five hundred, forty-four, whatever it was?

A Yes.

Q One-half was allocated to you and to Mann?

THE COURT: One-half of the forty-five or one-half of the eight?

Q One-half of the forty-five, whatever it is?

1
2 A Right. I am sorry.

3 Q So that as a result of this little test you
4 would up with over \$200,000?

5 THE COURT: No.

6 Q With over \$2000? Excuse me.

7 A Right.

8 Q With over \$2000 in your pocket?

9 A Right.

10 Q And so did Mann?

11 A Right.

12 Q Incidentally, didn't Paul Crawford get some of
13 that?

14 A Yes.

15 Q He got a hundred dollars from you, a hundred
16 dollars from Mann, and a hundred dollars from Jack?

17 Correct? He got \$300?

18 A Right.

19 Q A hundred from you, a hundred from Mann, and a
20 hundred from Jack?

21 Now, when were you alerted to the Secaucus
22 robbery before you consummated it?

23 A That same morning.

24 Q I beg pardon?

25 A That same morning.

Q The same morning? That job was not too elaborate, so that you didn't need too much preparation? Correct?

A Right.

Q And knowing your business together with Mann, you had no problem taking this fellow for eight or nine thousand?

A That is one way of looking at the question.

Q Now, I think your testimony was that the gun was given to you by Chester?

A Right.

Q Do you know where he got the gun from, Chester, to give to you?

A He was out of the car that Mike and Jack were in. I don't know who the car belongs to, nor do I know who the gun belongs to.

Q Did you see Jack deliver the gun to Chester?

A No, I didn't.

Q By the way, Mr. Myers, do you now know that the man who was carrying that money, that eight or nine thousand dollars, was employed by a previous employer of Jack Turner?

A I learned that since I have been in New York arrested for this charge, yes, sir.

Q Incidentally, I think you told us about a trip

to Pennsylvania?

A Right.

Q And you went to a stop or -- what do they call it?

A Like a trucking stop.

Q A trucking stop? Thank you. You went to a trucking stop somewhere in Pennsylvania. I think you went to two of them? Is that correct?

A Right.

Q I think you were also looking for a truck that was supposedly loaded with cigarettes?

A This is what we were told, yes.

Q And I think you were going to hijack that truck if you could?

A Right.

Q By the way, was that also incidental to the mailtruck robbery?

A No.

Q That was separate and apart?

A Right.

Q That was going to be a little quick heist? Right?

A Right.

Q Do you now know that the truck that was supposed to have been hijacked was likewise the truck of one of Mr. Jack Turner's previous employers?

SOUTHERN DISTRICT COURT REPORTERS

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1 A Well, as he was the one that gave us the
2 information on it, I assumed so, anyhow.

3 Q Do you know it as a fact?

4 A Not as a fact, no.

5 Q I don't know that I asked this question of you
6 before: how many times do you say you had any conver-
7 sation with Mr. Carroll concerning the stick-up of the mail-
8 truck, starting with the first time, if you can?

9 A The first time was in the tavern.

10 Q That was on the 21st of March. Now, is it your
11 testimony that Mr. Chester took you into that tavern and
12 introduced you to Tommy, and then Tommy began to lay out
13 the manner or the schematics for this robbery?

14 A He gave me information on it, yes.

15 Q What specifically do you say Tommy gave you?

16 A He told me the money that was involved was
17 supposedly at least \$300,000.

18 Q Could I stop there for just a moment. You
19 had already been told that with Chester?

20 A Right.

21 Q Now, what is the next thing you say Tommy
22 told you?

23 A He told me it was a post office truck.

24 Q Stop there a minute. Is that the same thing
25

that Chester had told you?

A I believe Chester had only told me it was a truck. I am not sure on that.

Q What is the next thing you say Tommy said to you?

A He told me that they had inside information on it.

Q I will stop you right there. Chester also told you the same thing?

A Right.

Q What is the next thing you say Tommy told you?

A He told me that anything else besides money that might be on the truck, they had someone to handle it.

Q Chester had already told you that, too?

A No.

Q Well, let's put it this way: substantially Tommy told you or repeated to you what Chester had already told you?

A Substantially, yes.

Q How long do you say that meeting or that conversation took?

A Five minutes. Ten, at the most.

Q By the way, you said this took place in a tavern?

A Right.

1 Q Did you have a drink there?

2 A That I can't remember.

3 Q Do you remember whether Chester had a drink?

4 A I can't remember that, either.

5 Q By the way, in all of the times that you had
6 been with Chester did you ever see Chester take a drink?

7 A I couldn't say yes or no, sir.

8 Q You can't say one way or the other?

9 A Right.

10 Q Inviting your attention to the morning of April
11 5, it is a fact, is it not, that you had a conversation,
12 or Chester had a conversation with you concerning the fact
13 that he wanted somebody hit?

14 A I don't believe so, sir.

15 Q Do you want to think about it a little bit?
16 Refresh your recollection?

17 MR. KENNEY: Your Honor, this is on a collateral
18 issue.

19 THE COURT: I will take it.

20 A I remember. It was on that day that Chester was
21 explaining some charge he had. I believe it was a hi-
22 jacking charge.

23 MR. DIRENZO: I didn't hear that.

24 THE COURT: He said it was not on that day.

1
2 You fixed the date as April 5th.

3 MR. DIRENZO: I did, April 5th.

4 THE COURT: He says you didn't have a conver-
5 sation on April 5th.

6 Q You say there was a talk about a hit?

7 THE COURT: Just a second.

8 MR. DIRENZO: I am sorry, your Honor. I will
9 take your help.

10 THE COURT: The witness says there was no such
11 conversation on April 5th. Now, you put your next question.

12 Q Was there a conversation about a hit on a day
13 other than April 5th?

14 A Right. Now, as I was saying, Chester --

15 Q Tell us where it was and when.

16 A What day it was I can't remember. We were in
17 Chester's car riding around. He was explaining to us about
18 a hijacking charge he had.

19 Q A hijacking charge he had?

20 A Right.

21 Q Against him?

22 A Right. And he says something to the effect on
23 being on bond or something, and that he knew who the witness
24 was, or something to that effect, and he asked us if we
25 knew anything about hit work. That is what he said.

1 That is the only thing I can relate to you, but we told him
2 no.

3
4 Q You understood what he meant by hit work, didn't
5 you?

6 A Right.

7 Q What did he mean by hit work?

8 A Put a contract on somebody and kill him.

9 Q Kill him? And that was because he had in-
10 formation or felt that a witness would be testifying against
11 him, and if he were eliminated and killed he could not
12 testify against Chester?

13 A Yes.
14
15
16
17
18
19
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22
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24
25

Q And he told you the fellow testified he might go to jail and he wanted him killed, so he don't go to jail, right?

A Right.

MR. DIRENZO: May I have the Court's indulgence for a minute?

(Pause.)

Q Mr. Myers, I am going to go back to that area where I asked you if you made some changes, and I invite your attention to Page 4. Mr. Foster put this question to you:

"Q What did you talk about?"

And you made an answer: If I may, with the Court's permission, and I am reading this so you can read it at the same time; "He said that Chester needed new faces that couldn't be associated with New York and that all of their faces were hot. All he told me at that time about the job was that they wanted me to take two dudes off a truck."

Now, it is a fact, is it not, that where the word "Chester" appears, a line was drawn through it and the written word "they" was substituted? Is that correct?

A Right.

Q But you originally said Chester, correct, and that was changed?

1
2 A Right.

3 Q Now inviting your attention to Page 24, there
4 is a long statement here. Getting down toward the bottom
5 of the page, about one-third from the bottom, an answer
6 to a question by Mr. Foster:

7 "Q What did you do when you got to Houston Street?"

8 And I am cutting it down. The statement orig-
9 inally read:

10 "At that time, I got in touch with Chester
11 again and I had to more or less threaten Chester to come over
12 to Jersey."

13 Is that correct?

14 A Yes.

15 Q Then you changed, there was a change, and you
16 initialed it, right?

17 A No, I didn't.

18 Q Well, is it a fact that where the word "I" appears
19 it was then "I" meaning you, was changed to Tommie, correct?

20 A Yes, it was changed, but I didn't change it.

21 Q Well, isn't that your initial?

22 A No, it is not.

23 Q Is that Mr. Mann's?

24 A It is G.M. My initials are T.M.
25

1
2 Q This initial is G.M.

3 A Yes, sir.

4 Q And that change was made in your presence.

5 A No, it wasn't. When I read back over the state-
6 ment, I was only concerned with what I had said.

7 Q I see.

8 A I more or less, you know, would have like skipped
9 over it, because being he said it, I would leave that up to
10 him.

11 Q I see.

12 A Where all of these changes were made, and there
13 are 1, 2, 3 --

14 MR. KENNEY: I object to that. He said he didn't
15 make those changes, he didn't read them.

16 THE COURT: He said he didn't read them, it is
17 not his change.

18 MR. DIRENZO: All right.

19 Q Mr. Myers, after the changes were made, after this
20 document was completed, you read the statement.

21 A Yes, I did.

22 Q You read it with the changes on it, correct?

23 A No, I didn't. As I said before, I would have
24 mainly been interested in what I had said. I would have
25

more or less just stand over what Geoffrey -- I wouldn't have paid that much attention to it, being he said it, you know, I would make that his responsibility.

Q I get you. I get you. But, in any event, Mr. Myers --

THE COURT: I suggest you move back from the witness.

MR. DIRENZO: It is just so I can show him the statement.

Q In any event, Mr. Myers, when you finally appeared before the swearing in officer, you did state, before signing this document, "I have freely given this 27-page statement. No threats or promises have been made to me. I have agreed to delay my appearance before the United States Magistrate to make this statement."

You signed such a statement and so did Mann, is that correct?

A Right.

Q You said "I have freely given this 27-page statement. No threats or promises have been made to me. I have agreed to delay my appearance before the United States Magistrate to make this statement. Lawrence Myers, 6-8-73."

Incidentally, that inscription, that writing, that was all in your own hand, is that correct?

2 A Yes, it is.

3 Q When you appeared before the swearing in officer,
4 you did in fact, consonant with the oath that you took,
5 read the 27 pages before you signed them, right?

6 A I told you how I read it previously, yes, sir.

7 Q And when you saw the various changes that appeared
8 on that document you wouldn't sign your name to it unless
9 it was all true and accurate, would you?

10 A As I said, sir, those changes that Geoffrey made
11 or that were made in his presence, I more or less overlooked
12 because that was what he said.

13 Q All right. Now you are telling us that as long
14 as the statement wasn't attributable to you, you just more
15 or less overlooked or skipped it, right?

16 A I am saying I didn't give that much attention
17 to it.

18 Q But there is no doubt that when the questioning
19 was taking place of both you and Mann, you were in close
20 proximity one to the other, you were close to one another,
21 correct?

22 A Yes.

23 Q So you heard that which he said, correct?

24 A Right.

25 Q Mann doesn't have a hearing impediment, does he?

2 A Not to my knowledge.

3 Q And I take it that you don't have any impair-
4 ment of your hearing?

5 A No.

6 Q One thing is certain. Now inviting your atten-
7 tion to April 5. You did not intend to kill Mr. Hickey.

8 A No, I didn't.

9 Q And, as a matter of fact, in all of the planning
10 and preparation, whether you got it from Chester, whether you
11 got it from Jack Turner or from a cop, was it clearly under-
12 stood that nobody was to be hurt or maimed or killed?

13 A That was understood, yes.

14 Q Right. So that in your initial plan to rob,
15 there was no intention that anybody should get hurt or killed.

16 A Right.

17 Q As a matter of fact, you were the one who asked
18 for chloroform?

19 A Right.

20 Q And you wanted to do that because after you got
21 the operator of the truck and the guard into the van, you
22 wanted to administer a little chloroform to subdue them,
23 put them to sleep so to speak?

24 A Right.

25

1 A Right.

2 Q And give them enough so that they would be
3 incapable of doing anything for about a half hour or so?

4 A Right.

5 Q And instead of getting chloroform, Jack gave you
6 ether, is that correct?

7 A Right.

8 Q Did you know that Jack's wife was a nurse and
9 was working at a hospital?

10 A I didn't know he was married.

11 Q And, in any event, you now reached a point where
12 after all of these rehearsals you are ready for the opening
13 night, so to speak, you are going to do the robbery, correct?

14 A Right.

15 Q And I think you said you had a pistol in your
16 left hand?

17 A Right.

18 Q Are you left-handed?

19 A Yes, I am.

20 Q And when you had that pistol in your left hand,
21 did you have your finger, your trigger finger, on the trigger?

22 A Yes, I did.

23 Q And before you put your finger on the trigger,
24 did you pull back the hammer?
25

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Myers-cross

1 A No, I didn't.

2 Q You know what I mean by the hammer, don't you?

3 A Yes, I do.

4 Q You didn't cock your gun.

5 A No, I didn't.

6 Q And you didn't cock it because you had no inten-
7 tion of shooting anybody.

8 A Correct.

9 Q You only wanted to use that gun to frighten some
10 body.

11 A Correct.

12 Q To subdue him?

13 A Right.

14 Q So they would offer no resistance.

15 A Right.

16 Q Now, the window, you said, was cracked approx-
17 imately four inches, correct?

18 A About that, yes, sir.

19 Q And just so that the jury understands what you
20 mean by "cracked," just in case one of them doesn't
21 know, the window was open about four or five inches. It
22 didn't mean that the window was actually cracked, is that
23 correct?

24 A Right.

1 Q And you tried to open the door from the right
2 side, from the outside, correct?

3 A Right.

4 Q And that was after you were standing on the
5 running board.

6 A Right.

7 Q And I think you said you were six foot two.

8 A Right.

9 Q And when you were standing on that running board,
10 you were standing pretty high?

11 A Yes.

12 Q Did you attempt to open the side door where Mr.
13 Hickey was sitting with your right or left hand?

14 A My right hand.

15 Q And you found it locked.

16 A Correct.

17 Q Then you put your pistol into the window, the
18 open window?

19 A I told you I changed hands first.

20 Q I recall that. You took the gun from your right
21 hand and then placed it in your left hand?

22 A No. I took it from my left hand and put it to the
23 right hand.

24 Q Put it to the right hand. And then you attempted
25

to unlock the door from the interior side of the truck?

A No, I didn't.

Q How? Tell us what you did.

A As I stated, I changed hands from my left to my right. I put the gun in the window, past the guard and pointed it at the driver and I said, "Freeze." The guard --

Q And you said what?

A Freeze.

Q Freeze?

A The guard was startled, or I can't exactly say what. He slapped at and tried to grab, I am not sure, the pistol. At the same time he was trying to get away from me. But he was quite startled.

In this instance --

Q He was quite strong?

A Startled.

Q Startled?

A In this instance he either tried to grab or he hit the gun, and between his action and the action of my elbow being lodged the way it was, the gun went off.

Q In other words, he actually pulled the trigger.

A No.

Q No? Didn't you --

THE COURT: Mr. Direnzo, if you stand back

1 further, then the witness will talk louder and all the
2 jurors will hear what he is saying.

3 MR. DIRENZO: All right.

4 Q Now, at the point where the gun was discharged,
5 you said you pointed that in the direction of the driver
6 of the truck?

7 A Right.

8 Q Well, wasn't that Mr. Mann's assignment, to take
9 care of the driver?

10 A No, it was not.

11 Q It was your assignment.

12 A Yes.

13 Q In other words, you were to take care of both the
14 driver and the guard?

15 A No, it was not. By information given to us,
16 the guard was supposedly in on the operation and he was just
17 going to sit there. So I really paid him no attention. That
18 is why I put the gun that close to him.

19 Q Now, incidentally, when this gun went off, you
20 knew you hit Mr. Hickey.

21 A I knew I hit him when he fell.

22 Q I beg your pardon?

23 A I knew I hit him when he fell, when he slumped
24 in his seat.
25

Q I still can't hear the answer.

A I knew that I hit him when he slumped into the seat.

Q Did you say something on direct examination that you hit him in the neck?

A Yes.

Q Well, you felt you hit him in the neck because you saw some blood flowing from it?

A If you remember correctly, I told you that I opened the door from the inside and I looked at him. This is why I know that I hit him some place in the neck. I didn't know then, when the shot was fired, that I hit him in the neck.

Q I am a little bit ahead of myself, Mr. Myers. When you opened that door, would you describe to the jury how you opened that door?

A Yes, I can. I dropped the gun on this finger (indicating).

Q Your pinky.

A Right.

Q Where did you drop it? What part of the gun did you drop on your pinky?

A The -- I think we call it the trigger cover or the guard around the trigger.

1 Q You call that the trigger guard, is that correct?

2 A Right.

3 MR. DIRENZO: Just one minute. So that we have
4 it clear, I ask that this paper be marked for identifica-
5 tion, your Honor.
6

xxx 7 (Defendant Carroll Exhibit F was marked for
8 identification.)

9 MR. DIRENZO: May I show this to the witness,
10 your Honor?

11 THE COURT: Yes.

12 Q So that we understand where the guard is, is
13 this the guard, this ring right here (indicating)?

14 A Yes.

15 Q And that is the trigger?

16 A Right.

17 Q Would you be good enough to put a "G" over here,
18 please, to show where the guard is?

19 A (Marking.)

20 MR. DIRENZO: May I now offer this in evidence
21 merely as an aid to the jury to establish where the trigger
22 guard is?

23 MR. KENNEY: No objection.

24 THE COURT: All right.

xxx 25 (Defendant Carroll Exhibit F for identification

received in evidence.)

Q Now, you took your gun and dropped it on your pinky and held it with the trigger, correct? So that the gun was hanging at that point you did not have any part of your hand on the grip or butt of the gun, correct?

A Right.

Q Hickey is shot at this point. You have changed your gun from one hand to the other hand and you got your gun --

A That is before.

Q -- on your pinky finger?

A That was before the change. That is when I was outside.

Q While you were outside. Now you proceed to open the door?

A Right.

Q In the interior, with the gun on your pinky.

A Right.

Q Holding it against the gun. What was the exact motion you made at that point to attempt to open the door of the truck?

A All I had to do was pull the latch up.

Q Pull the what up?

A The latch.

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Q The latch.

A Right.

Q Did you do that?

A Yes, I did.

Q And when you pulled the latch up, did you open the door?

A The door opened by itself.

Q Opened by itself?

A Right.

Q And at this point Hickey is slumped over?

A Right.

Q Now, did you proceed to or attempt to take Hickey out of the truck, to bring him to the van in accordance with the preparation, plans you had made?

A No, I didn't.

Q And that was because at that point you heard three or four shots being fired, is that correct?

A That's because I had shot him.

Q That was because you what?

A I had shot him.

Q You shot Hickey. But you knew you had shot Hickey before you opened the door of that truck?

A I knew he was hit, yes.

1
2 Q You knew he was hit.

3 A Right.

4 Q Even after you knew he was hit, you proceeded
5 to open that door?

6 A Right.

7 Q And you proceeded to open that door because you
8 were going to take Hickey out.

9 A No.

10 Q Well, can I ask you why you opened the door?

11 A I wanted to see if he was dead or not.

12 Q Oh. When were you satisfied he was dead?

13 A I still didn't know it. When I saw where the bullet
14 wound was, that more or less told me.

15 Q You knew if the point of entry of the bullet
16 was even into the neck, as you said, you know that that
17 would have been a fatal shot, you normally would kill a
18 man.

19 A Right.

20 Q Did you bother to close the door?

21 A I don't remember.

22 Q It is a fact that you did close the door, isn't
23 it?

24 A I don't know.

25 Q Then you left, correct? You left the scene?

jgb-17

Myers-cross

2 A Right.

3 Q You ran on the van and you described what
4 happened after that with Mann, both of you running to the
5 van, and you got there?

6 A Right.

7 Q Onto the van and took off and went up to the
8 area of Houston Street, correct?

9 A Right.

10 Q And when you got to the area of Houston Street,
11 I think you told us that you went to Katz' Delicatessen,
12 correct?

13 A After --

14 THE COURT: I think with the mention of Katz'
15 Delicatessen, it is one o'clock, we ought to adjourn for
16 lunch.

17 I want to tell the jury that I think we are
18 going to have to sit to 6:30, certainly today and tomorrow,
19 because we will try, if possible, to have this case finished
20 for your deliberation before the Xmas weekend. The only way
21 I could see that we can do that is if we sit until 6:30.
22 So if you have to make any arrangements during the luncheon
23 recess, please do so. Return at 2:10.

24 (Luncheon recess.)
25

mp

A F T E R N O O N S E S S I O N

2.05 P.M.

(In the absence of the jury.)

MR. DIRENZO: If your Honor please, I have a request to make. The request is this: in view of the fact that there are testifying witnesses in this case who are co-defendants named in the indictment who have pleaded guilty and have been directed to appear before the Probation Department where disclosures are made to probation officers concerning their complicity in the case, those reports or statements that they make or have made to the Probation Department, if they have made such statements, should be made available to counsel, and I urge that request predicated on Section 3500 and also under the possible theory of Brady v. Maryland.

THE COURT: There couldn't be any 3500 because it is a statement made after testimony. I have no reports of probation officers of people who have testified so far. I will check it when I go upstairs. There are a couple up there of the defendants, but I don't think there are any of those who testified so far, but it certainly wouldn't be 3500.

MR. DIRENZO: I will take it under any eery.

THE COURT: I will see if there is anything con-

1
2 flicting with what they have said here or that will be
3 helpful to the defense. But, as I say, I have two or
4 three probation reports, and I don't think they cover
5 anybody who testified here.

6 Do you know if they have spoken to the Probation
7 Department yet, Mr. Kenney?

8 MR. KENNEY: No, your Honor. We don't receive
9 any information of that kind.

10 THE COURT: I will check it out.

11 MR. DIRENZO: If there is any such material,
12 your Honor, I take it they will make it available to us,
13 even though they have already testified, if we deem it
14 necessary.

15 THE COURT: I don't follow that.

16 MR. DIRENZO: If there is any information
17 that should be made available to us for the purposes of
18 cross-examination.

19 THE COURT: You mean in the existing probation
20 reports, even though they do not testify upon witnesses
21 who have testified here or will testify here?

22 MR. DIRENZO: If they testified here, and if
23 there is anything in there that would be helpful to the
24 defense, I say it should be made available to us. We
25 should also be afforded the opportunity to call back any

witness who has already completed his testimony.

THE COURT: I will read the reports.

MR. DIRENZO: Thank you, your Honor.

(Jury in box.)

T E R R E N C E D E W E Y M Y E R S, resumed.

THE COURT: You may continue.

CROSS EXAMINATION CONTINUED

BY MR. DIRENZO:

Q I think we reached a point where subsequent to this attempted robbery and after the shooting, you said you jumped into the van, went up to Houston Street or South Street? Is that correct?

A Yes.

Q Now, you said I think you went to Katz Delicatessen or Restaurant?

A Yes.

Q How long did you remain there?

A About an hour.

Q Were you there alone or was someone with you?

A Geoffrey Mann was with me.

Q That was after you changed your clothes in your vehicle?

A Right.

Q Now, when you went to Katz, did you sit down at

1
2 a table?

3 A No.

4 Q Did you stand at a counter?

5 A No.

6 Q Where in Katz did you go?

7 A I was outside.

8 Q In other words, you did not go into the restaurant
9 itself? You waited outside together with Mann?

10 A Yes.

11 Q And then sometime after that you left?

12 A Right.

13 Q You found your way to Jersey?

14 A Right.

15 Q Did you take the Holland Tunnel or Bridge?
16 I think you said you took a bridge? Is that correct?

17 A Right.

18 Q From New York?

19 A Right.

20 Q Where was that bridge, if you recall?

21 A I do not.

22 Q Now, subsequently with reference to Houston Street,
23 prior to the 21st of March did you know anything about that
24 Houston Street area?

25 A Only that it was associated with a highway called

Francis D.R.

Q With FDR Drive?

A Yes.

Q I think there was some testimony this morning about someone you were visiting in an apartment somewhere on Houston Street? Is that correct?

A Right.

Q This someone, whoever it was -- I am not concerned with whom you were meeting there -- this someone who had this apartment on Houston Street -- did you know about this apartment prior to March 21, 1973?

A Right.

Q Had you been there before?

A Yes.

Q Approximately when for the first time had you ever gone to that apartment?

A About a year before.

Q On how many occasions would you say you visited approximately?

A Twice.

Q With someone?

A Twice.

Q ---So that before the 21st I take it you were generally familiar, at least, with Houston Street?

1
2 A Right.

3 Q You know that Houston Street runs east and west?

4 A I don't know which way it runs.

5 Q You know it ran to the East River?

6 A No, I don't.

7 Q Wasn't your car parked at the East River Drive
8 on Houston Street?

9 A I say my car was parked on Houston Street.
10 That is as close as I can come to where I was.

11 Q Now, one other area I didn't explore: there
12 was some talk about somebody disconnecting the beeper on
13 the mailtruck?

14 A Right.
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2 Q Would you be good enough to tell this jury what
3 a beeper is?

4 A I don't know.

5 Q Well, do you know that it is not a siren?

6 A I have no knowledge of it whatsoever.

7 Q You never heard anything about a beeper before?

8 A No.

9 Q Except hearing it here?

10 A Right.

11 Q Let me ask you this: Do you know that a beeper
12 is a piece of electronic equipment?

13 A Well, I had assumed that, yes.

14 Q And did you know that a beeper is connected on
15 a certain wave length?

16 A No, I didn't.

17 Q Did you know, and the answer is yes or no, Mr.
18 Myers, that law enforcement agents also through electronic
19 equipment are able to pick up the general location of a
20 vehicle that has a beeper on it?

21 A Yes, I did.

22 Q And that is because of the wave length they
23 travel under, right?

24 A I don't know how they do it, but I know they can.
25

1 Q But you did learn that Jack -- and when I say
2 Jack, I mean Turner -- was to disconnect the beeper.

3 A Right.

4 Q In any conversation that you had with Mr. Turner,
5 did he tell you where the beeper on this mail truck was
6 located? Just yes or no.

7 A I can't answer yes. And if he did, I don't
8 remember. I really wasn't too concerned about it.

9 Q I see. You weren't concerned about it because
10 that was not part of your assignment, correct?

11 A Right.

12 Q And did anyone, and more specifically Chester
13 Crawford, tell you that Jack knew where the beeper was
14 affixed to the truck?

15 A I can't remember him saying he knew where it
16 was. All I was told was that he knew how to disconnect it.

17 Q But you were satisfied --

18 A Right.

19 Q -- that if he was disconnecting the beeper, he
20 knew where it was.

21 A Right.

22 Q And the reason for his disconnecting the beeper
23 would be to avoid detection by the authorities after the
24 robbery was completed.
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A Right.

Q Just these last few questions, Mr. Myers. You had been asked and have been asked what employment you had from 1969 up to and including 1973, correct?

A Right.

Q And I think your answer was that you were unemployed, correct?

A Right.

Q And then you were cross-examined today by Mr. Martin and you told him you were unemployed except for a little parttime work, correct?

A Right.

Q And I take it you had been living with your wife and family.

A Right.

Q You live in an apartment?

A Right.

Q You pay rent there.

A Right.

Q You feed your children.

A Yes.

Q You maintain your home.

A Yes.

Q Feed your wife.

1
2 MR. KENNEY: Objection to this line of ques-
3 tioning.

4 THE COURT: Overruled.

5 Q Would you be good enough to tell us how you were
6 able to maintain them in the apartment, give them shelter,
7 give them food, give them clothing, during this long period
8 of unemployment except for these little parttime jobs?

9 MR. KENNEY: Objection.

10 THE COURT: Sustained.

11 Q Except for the partime job from 1969 up until
12 1973, did you have any legitimate income?

13 A No.

14 MR. DIRENZO: Thank you, Mr. Myers.

15 THE WITNESS: Thank you.

16 THE COURT: Mr. Hafetz?

17 CROSS-EXAMINATION

18 BY MR. HAFETZ:

19 Q Mr. Myers, you know that Paul Crawford was
20 offered a plea of conspiracy in this case and pleaded to that
21 charge, is that correct?

22 A I know it now. I didn't know what he had pleaded
23 to. I know he did.

24 Q And you pleaded to murder in the second degree,
25 is that correct?

1
2 A Yes.

3 Q Under the second count. When you testified on
4 Friday that it was your understanding that the defendants
5 had all been offered the same degree, you know now that
6 was incorrect, don't you?

7 THE COURT: That isn't what he testified to.
8 He testified his lawyer told him.

9 Q You know for a fact that is not true, don't you,
10 Mr. Myers?

11 A You mean to the respect of them pleading to the
12 conspiracy pleading?

13 Q Of what was offered.

14 A I believe, yes, about what you are saying, yes.

15 Q I mean, your knowledge that you have or the
16 statement made to you you know was incorrect, is that right?

17 THE COURT: It may not have been incorrect
18 at the time it was made to him, Mr. Hafetz. All he can
19 tell you is what his lawyer told him back in June or
20 September, whenever it was.

21 Q Well, you now know that that statement is in-
22 correct, an incorrect fact as to what was offered the
23 defendants in this case, am I right?

24 MR. KENNEY: Objection.

25 THE COURT: Sustained.

2 Q Do you know that Paul Crawford at least was
3 offered a charge of conspiracy, is that correct?

4 A I know that now.

5 Q So you know that at least he was not offered
6 murder 2 but was offering something less than that, is
7 that correct?

8 MR. KENNEY: Objection.

9 THE COURT: Mr. Hafetz, I thought I clarified
10 this. Now go on to something else.

11 All the witness testified to was that at the time
12 that his lawyer spoke to him his lawyer said that all the
13 defendants were offered murder in the second degree. He
14 can't tell you what happened thereafter and you can't ask
15 him to draw conclusions. All he can tell you is that that
16 was true at the time his lawyer told him. Whether it was
17 true or untrue at the time or true or untrue today is immater-
18 ial and he can't tell you.

19 MR. HAFETZ: Judge, may I approach the bench
20 just one minute?

21 THE COURT: You may.

22 (At the side bar.)

23 MR. HATZ: Judge, please look at Page 660 of the
24 transcript, the second question and answer. I am sorry, that
25 is Page 666. Pardon me.

1 THE COURT: Second question and answer?

2 MR. HAFETZ: Yes. My point is on this
3 that the witness' answer on Friday as to defendants othe-
4 than himself was a volunteered answer. The question about
5 Mr. Myers concerned the offer to himself.
6

7 THE COURT: Did you have any conversations? He
8 says yes, I did. He says my lawyer told me. He didn't say
9 anybody, Kenney, told him. He says in fact Mr. Kenney
10 said nothing to me.

11 MR. HAFETZ: The question concerned his own
12 taking a plea. He went on to talk about all other defendants.
13 My point is --

14 THE COURT: All he is doing is telling what his
15 lawyer said to him, Mr. Hafetz. Now you are asking him
16 to testify about knowledge, and he has no knowledge, whether
17 it is true or untrue. He is only telling you what his lawyer
18 said to him. Now you want to put Mogel on the stand? You
19 can put Mogel on the stand. It is ridiculous. He can't
20 testify to anything.

21 MR. HAFETZ: I want to know has he gained
22 knowledge since then.

23 THE COURT: It is immaterial. The jury knows
24 that somebody pleaded guilty to a conspiracy thereafter, from
25 the person's mouth. He doesn't know. Not to his own

1 knowledge. He doesn't know whether what Mogel told him
2 was true then at the time he told it to him.
3

4 MR. DIRENZO: Could he be asked, your Honor,
5 if Mogel ever told him what the plea was that the other
6 defendants got?

7 THE COURT: I don't think so.

8 MR. HAFETZ: Can we ask for an instruction then
9 that the jury is to draw no inference from his statement
10 as to what was or was not offered to any other defendant
11 in the case?

12 THE COURT: I don't think it makes any difference
13 to you.

14 MR. HAFETZ: I am concerned with the possible
15 prejudice or impression on the jury that they were all
16 placed in the same boat and all offered Murder 2 when in fact
17 they were not.

18 THE COURT: At that time it may have been true.

19 MR. HAFETZ: It wasn't true. It wasn't true
20 then or now.

21 THE COURT: All he can tell you is what a lawyer
22 told him.

23 MR. HAFETZ: I know, but it is sort of a hard
24 thing to correct.

25 THE COURT: I am sorry.

1 MR. HAFETZ: Once the statement is made.

2 THE COURT: He can't tell you whether it is
3 true or not and you can bring out, as you have through the other
4 witness, what he got.

5 MR. HOPPER: He was present in court with his
6 attorney on September 17 when his attorney offered to
7 plead him guilty to the conspiracy, that is Paul Crawford's
8 attorney.

9 THE COURT: So what?

10 MR. HOPPER: When he says Friday what an offer
11 was, he knew the statement to be an incorrect statement.

12 THE COURT: No, he doesn't.

13 MR. KENNEY: I object to that.

14 MR. HOPPER: As of Friday?

15 THE COURT: It is not a question whether it is
16 correct or incorrect. The question is what his attorney
17 told him. You are trying to say that is not repeating
18 correctly what his attorney told him? Is that your point?

19 MR. HOPPER: No.

20 THE COURT: Okay. Let's go on.

21 (In open court.)

22 MR. HAFETZ: No further questions.

23 THE COURT: Mr. Hopper.

CROSS-EXAMINATION

BY MR. HOPPER:

Q Mr. Myers, how old are you?

A Twenty-six.

Q Mr. Myers, would you tell the Court and jury what type weapon you had on April 5th?

A A .38.

Q A .38. Is that the type of weapon that can be fired both from a cocked position and from an uncocked position?

A Yes.

Q Would that be a double-action revolver?

A The term is that, yes.

Q So that, in other words, when you placed the revolver in the window, even though it was not cocked with some pressure on the trigger, it still could fire?

A Right.

Q And that is what happened.

A Right.

Q Mr. Myers, the document that has been shown to you by the other counsel, or various of them in this case, was a statement that both you and Geoffrey Mann made to postal inspectors on June 7, 1973, is that correct?

A Right.

Q There has been considerable testimony that you

1
2 have reviewed that statement on a number of occasions, is
3 that correct?

4 A Yes.

5 Q I ask you yes or no, Mr. Myers, in that statement
6 was there any reference by you whatsoever to a young boy
7 or young man being involved in this crime?

8 A No.

9 Q In that statement you endorsed on the end that
10 you waived your rights to be taken before a magistrate,
11 is that correct?

12 A Right.

13 Q And at what time did you put that endorsement
14 on the statement?

15 A After the statement was made and had been typed
16 up by a stenographer, I think it was.

17 Q Were you told by the postal inspectors that you
18 had a right to be immediately arraigned?

19 A Yes.

20 Q At what point on that day were you told that?

21 THE COURT: What is the relevance of this?

22 A I don't know the exact time.

23 THE COURT: It is completely irrelevant.

24 Q Mr. Myers, did Paul Crawford at any time from
25

1 the day you met him until your return at the end of that
2 week tell you his last name?

3
4 A I don't believe so. I am not sure.

5 Q Well, when you gave your statement on June 7
6 you indicated you did not know his last name, isn't that the
7 fact?

8 A Right.

9 Q And isn't it fair to say that there would be no
10 need for you to know his last name?

11 A Right.

12 Q When you met Chester Crawford, did he tell you
13 his last name?

14 A No, sir. I don't think so.

15 Q And likewise there was no need for you to know
16 his name.

17 A Right.

18 Q You have mentioned a number of meetings or days'
19 activities that began in the Williamsburg section in Brooklyn,
20 is that correct?

21 A Right.

22 Q Was that at South Street in Williamsburg?

23 A I can remember only a street called South Third
24 or S. Third. I don't know if that means south or not.

25 Q And I think you indicated that it was in the

vicinity of a kosher delicatessen.

A Yes.

Q On any of the occasions that you met there, did you actually go inside the delicatessen?

A Yes.

Q And on some occasions you met outside.

A Right.

Q At any time during that period from the 20th through the 5th, did you know where Chester Crawford lived?

A Chester Crawford had shown us a house in a part of New York I don't know, and also I believe I you call it a basement apartment in a part of New York that I don't know, and said that these were both his residences. I only have his word for that.

Q When did he show you that?

A I can't tell you. I would say the second week I was up here. I am not sure.

Q You have mentioned a couple of times that Chester Crawford on the occasions that you met him drove around aimlessly. Was that your testimony?

A What I was saying is that to me it was aimlessly because I didn't know where he was going, and it seemed like he was backtracking and going over certain places that he had already been. So to me it would be aimlessly, yes.

1
2 sir.

3 Q Well, would not his purpose be to make certain
4 that he was not under surveillance?

5 A I don't know.

6 MR.KENNEY: Objection.

7 THE COURT: He answered.

8 Q Mr. Myers, do I understand that your testimony
9 now is that on the first day that you met Chester Crawford
10 he did not tell you that this job involved a mail truck?

11 A I remember him saying it was a truck. I don't
12 remember him specifically saying it was a mail truck.

13 Q Well, are you saying, in answer to some questions
14 to Mr. Durenzo, it is your testimony that you don't remember
15 whether he told you it was a mail truck or is it your testi-
16 mony that he did not?

17 A As best as I can remember.

18 Q He did not?

19 A He did not say it was a mail truck. He said
20 it was a truck.

21 Q And you learned that on the following day, when
22 you met the man you referred to as Tommie or Tony.

23 A Right.

24 Q Isn't it a fact that before the day that you met
25 the Tommie or Tony you had been over the route that the

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mail truck would take?

A I was taken in the general vicinity.

Q You were not taken over the route?

A No, not in the sense of going over the exact streets, as I was later.

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T3

Q Let me see if I can get clear in my mind some dates. You arrived on the 25th of March?

A Yes.

Q You went to Williamsburgh where you and Paul met Chester?

A Yes, sir.

Q After the day's events of March 20 you went to the Holiday Inn in New Jersey?

A Yes, sir.

Q Who told you to go to the Holiday Inn?

A That I can't remember.

Q Pardon?

A I can't remember that.

Q Did you know how to get there?

A No.

Q Did Chester drive you there?

A We followed him there.

Q Do I understand that it was on the 20th that one of the things that Chester told you was that the next day he wanted you to meet somebody from New Jersey?

A I can't put it in exact words. He said he had somebody for me to meet.

Q On the next day?

A Right.

Q So on the 20th you only met Chester and Paul?

A Right.

Q Am I correct that either the night of the 20th or early on the 21st you called your friend Geoffrey and he came up to New York?

A Right.

Q And he arrived on the 21st?

A Right.

Q I think you indicated he had some trouble on the highway and, therefore, arrived much later than you expected?

A Right.

Q About what time did he arrive on the 21st?

A I would say about one or two o'clock in the afternoon. I am not sure.

Q Mr. Myers, I am handing you Defendant McCloskey's Exhibit C for identification, and I would like you to turn to page 6 of that statement, particularly about two-thirds down the page to where Mr. Foster puts this question to you. I would like you to listen to the question and then I would ask you a question:

"Foster: Who went that night to look at the job?

"Myers: Chester, Paul, and myself.

1
2 "Foster: Where did you go and at what time?

3 "Myers: We went to the Wall Street District
4 at about 5.30 or 6.00 p.m. that evening.

5 "Foster: Who pointed out the truck and the
6 route?

7 "Myers: Chester.

8 "Foster: Do you recall the route taken and the
9 names of some of the post offices?

10 "Myers: The first stop was the Federal Reserve
11 and the second stop was a kind of large post office on a
12 one-way street near a lot of fish markets.

13 "Foster: Did you actually follow the truck on
14 the trip?

15 "Myers: Yes, on the entire route that was to be
16 hit later."

17 Mr. Myers, do you recall those questions
18 being asked of you and do you recall giving those answers?

19 A Yes.

20 Q Were they truthful when you gave them?

21 A Yes.

22 Q Earlier you had some question as to whether or
23 not it was Chester who had told you it was a mailtruck,
24 and I am not certain whether you said you didn't remember
25 or it wasn't clear?

1
2 A Right.

3 Q Now, as of this moment you know it was Chester
4 who told you it was a mailtruck?

5 A No. When I gave this information to the
6 postal inspector I was giving him a conjunction of all the
7 information I had.

8 Q Mr. Myers, you followed the truck? It was a
9 mailtruck?

10 A I didn't follow it that day.

11 Q But you followed it with Paul and Chester?

12 A Yes.

13 Q Was there any other occasion where only you and
14 Paul and Chester followed the truck?

15 A It must have been.

16 Q I didn't ask you that.

17 A That wasn't the only time I was taken over that
18 route.

19 Q Well, Geoffrey arrived the next day?

20 A Right.

21 Q Now, the balance of the times you went over that
22 route you now had Geoffrey in the act, did you not?

23 A No, sir, there was a time when Geoffrey went
24 by himself.

25 Q You went with Geoffrey each time that you went

after he got into this crime, did you not?

A Yes.

Q Well, now, the reference that we are just talking about is a reference to you, Paul and Chester?

A Yes.

Q You said something where you used the word "conjunction"?

A Right. I am still using it.

Q Would you explain to us what you mean by "conjunction"?

A In other words, I was not just giving him step by step how the information was given to me, I gave it all to him in, more or less, I should say, in general. I tried to give him the overall picture as quickly as possible.

Q Let me go back to the question that Mr. Foster put to you on page 6.

"Who went that night to look at the job?

"Myers: Chester, Paul --"

THE COURT: What night are you referring to?

MR. HOPPER: I am referring to page 6, two-thirds down the page.

THE COURT: Were there any prior questions pinpointing the day?

MR. HOPPER: Yes, your Honor.

2 Q Will you turn to page 4, please, the bottom of
3 the page, about three-quarters of the way down.

4 "Did you stay in New York that night?

5 "Myers: I stayed at the Holiday Inn in New
6 Jersey on the other side of the Holland Tunnel."

7 MR. HOPPER: May I now have Exhibit 8.

8 Q Mr. Myers, I show you Exhibit 8, which you
9 previously identified.

10 A Right.

11 Q And ask you if that is the registration card
12 on the occasion of March 20 when you stayed at the Holiday
13 Inn?

14 A Yes, it is.

15 Q Who did you stay there with?

16 A Myself and Paul Crawford.

17 Q Geoffrey did not arrive until the following morn-
18 ing?

19 A Right.

20 Q The following day, March 21, you stayed at the
21 Lincoln Tunnel Motel? Is that correct?

22 MR. HOPPER: May I have Exhibits 9 and 10.

23 Q (Continuing) I show you Exhibit No. 9 and ask
24 you if that is your registration?

25 A Right.

Q When you went to the motel on the night of March 21?

A Yes.

Q On that night according to your testimony, you stayed with Geoffrey and yourself?

A Right.

Q From the time that Geoffrey arrived on the scene until you, Paul and Geoffrey returned to Washington at the end of the first week, except for your trips back to Washington, or trip, when you visited the scene of the crime was Paul present?

From the time Geoffrey arrived, after he arrived, there were occasions you again went down to look at this area? Is that correct?

A Right.

Q And he arrived on the 21st?

A Right.

Q On each occasion that you visited the scene of the crime after Geoffrey arrived, was Geoffrey, Paul and Chester there together?

A You are talking about when Paul went back to D.C.?

Q I am talking about before?

A Yes.

Q The answer is yes?

A Yes.

Q Let me show you this Exhibit 10 and ask you if that is the registration card from the Ramada Inn?

A Yes.

Q That is where you stayed the night of the 22nd?

A Right.

Q Tell me when for the first time, what date, did you go to the tavern that you referred to in New Jersey?

A The first time?

Q Yes.

A The 21st.

Q Was Geoffrey with you on that occasion?

A Yes, he was.

Q You were asked, Mr. Myers, some questions concerning the time. Is it your testimony that you don't remember going to a diner on the 21st? Or is it that you didn't go to a diner on the 21st?

A I don't remember.

Q Would it refresh your recollection if I informed you that Paul Crawford has testified that on the 21st he, you, Geoffrey were driven to a diner where Chester went in to the diner and met a man in the vestibule of that diner?

A I do not remember.

2 Q Would it refresh your recollection if I read you
3 these questions from a statement given by Paul Crawford to
4 the postal inspectors on June 8, 1973:

5 "Monroe: Here is the spread of white males.
6 Do you recognize anyone in the spread?

7 "A Yes.

8 "Q Which do you recognize?

9 "This man looks similar to the man who talked to
10 Chester in a diner in New Jersey.

11 "Do you know the man's name?

12 "No.

13 "Monroe: The man in the picture is Vincent
14 Francis McCloskey."

15 I ask you this: does that refresh your recol-
16 lection as to the events of that entire first week, that
17 is, as of June 8, 1973, Paul Crawford did not know the name
18 Mike?

19 A Sir, I can't speak for what another man remembers
20 or doesn't remember. I have no control of that.

21 Q When next did you see Harry Johnson after the
22 aborted robbery?

23 A He was on a street, he was near South Street,
24 down by the Fish Market. It is under an el highway,
25 standing in the street.

Q Please come over and show us on the map where.

A Some place along this street here (indicating).

Q Is that indicating Water Street?

A It is South Street.

Q He was in the vicinity of Peck Slip?

THE COURT: His finger went all the way from Beekman up to Frankfort Street, three blocks.

Q This was after the crime?

A Right.

Q You say that you alighted from the van in the vicinity of Houston Street? Is that correct?

A Right.

Q Did you get into your car?

A Yes.

Q Are you now telling us that after you got in your car you returned to the scene of the crime?

A That's not the scene of the crime, sir.

Q Well, it is one block or two blocks east of the post office, isn't it?

THE COURT: The scene of the crime is Beekman and Williams Streets, isn't it? It looks to me it is like five or six blocks away.

MR. HOPPER: Well --

THE COURT: Let's not argue. Next question.

1
2 Q At the commencement of the crime sequence on
3 April 5 was the van parked as indicated on that map on the
4 street called Peck Slip?

5 A You are talking about before the progression
6 of the robbery?

7 Q As you were lying in wait.

8 A No, as we were waiting for the postal truck it
9 was down on the same street as I told you Harry Johnson was
10 on.

11 Q Was Geoffrey Mann in the car with you when you
12 returned to that location?

13 A Yes, he was.

14 Q Did Johnson go out to Jersey with you that
15 evening?

16 A Yes, he did.

17 Q After you returned to Washington, which I take
18 it was the next day, April 6th --

19 A Yes?

20 Q -- did you and Harry and Geoffrey go your separate
21 ways?

22 A More or less, yes, sir.

23 Q When did you next see or hear from Harry Johnson?

24 A I believe Geoffrey heard from him before I did.

25 MR. HOPPER: I ask that that be stricken.

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Myers-cross

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THE COURT: Strike it.

Q When did you next see him or hear from him?

A I can't even say if I did, really.

Q So that it is possible that since April 6 up until at least the time of your arrest you had no personal communication with Harry Johnson?

A It is possible.

Q Can you recall anything to contradict that?

A If we had any type of meeting, it was, your know, highly inconsequential, so I just don't remember.

Q Subsequent to April 6, did you have any communication with Jack Turner?

A No, sir.

Q No phone calls, no phone conversations?

A No, sir.

Q Did you have any conversations with Chester Crawford?

A Yes, sir.

Q On a number of occasions?

A Two or three times, yes, sir.

Q And were those conversations through this telephone contact source, this woman Maria?

A I don't know where he was calling from. He would call my house.

Q You had sort of a system worked out where you would call this number and he would call back?

A Well, he gave me two numbers, and he had told

me somebody named Maria was in one of them. I don't know who was at the other.

Q In the conversations you had with Chester, did he discuss and relay information to you based on telephone conversations he had with Jack Turner?

A Not to my knowledge, no.

Q I am talking about whether he relayed them to you, Mr. Myers.

A Anything he may have said to me, he didn't say something like "Jack told me this," if that is what you mean. He would just tell me something and I would take it as if I was getting it from him. I would figure that was his knowledge.

Q Mr. Myers, do you recall being in court on September 17 of 1973 when various of the defendants were arraigned?

A (No response.)

Q When the defendants on indictment, I believe, 606 were arraigned?

A I remember when I was arraigned, but I don't know the date.

Q It would be the date the various pleas were taken. Do you recall that the defendants were lined up

in an L-shaped pattern with their attorneys, and going down the names of the defendant in order --

THE COURT: Pardon me. He merely says he doesn't remember the exact date.

MR. HOPPER: When it happened, I am trying to give him the situation.

THE COURT: He doesn't remember that at September 17. He remembers being arraigned, but he doesn't remember the exact date. Are you trying to establish the exact date?

MR. HOPPER: I am not interested in the date.

THE COURT: Then let's go on to something else.

MR. HOPPER: I am trying to orient him.

THE COURT: He is oriented. He says he remembers that situation.

Q Do you recall that situation?

A Yes, I recall that situation.

Q Do you recall that you were sitting at a table going in an L away from where the other defendants were standing horizontally across the room?

A I can't place everybody in his proper position, but I remember the day you are talking about.

Q Was that the first time since the events of April 5 that you have testified to that you saw the defendants

1 in person?

2 A No, sir.

3 Q You had seen him previously in person? I am
4 saying since April 5.

5 THE COURT: Any one of them.

6 A From April 5 to September 17? Is that the time
7 you are talking about?

8 Q Yes.

9 A I had seen a few of them on occasion in the bull
10 pen downstairs.

11 Q Did you see Carroll, that is, between your arrest
12 and the day you were in there for that arraignment?

13 A I am not sure. I believe I saw Mr. Carroll at
14 West Street. I don't know what day that was. I believe
15 that was some time in August.

16 Q Had you seen McCloskey?

17 THE COURT: Who is McCloskey?

18 MR. HOPPER: I am sorry. The defendant Vincent
19 McCloskey.

20 A Do you mean Mike?

21 THE COURT: He says, "Do you mean Mike?" Do you
22 mean Mike?

23 MR. MARTIN: Objection, he was summarizing that.

24 THE COURT: Objection overruled. The indict-

U.S. COURT OF APPEALS:SECOND CIRCUIT

Index No.

U.S.A.,

Appellee,

against

Affidavit of Personal Service

CARROLL, et al,

Defendants-Appellants.

STATE OF NEW YORK, COUNTY OF NEW YORK

ss.:

I, James Steele;

being duly sworn,

deposes and says that deponent is not a party to the action, is over 18 years of age and resides at

250 West 146th Street, New York, New York

That on the 10th day of June 1974 at Foley Square, New York

deponent served the annexed

Appellants' Brief

upon

Paul J. Curran-U.S. Attorney Southern District-Attorney for Appellee

the in this action by delivering ² ^{its} true copy thereof to said individual personally. Deponent knew the person so served to be the person mentioned and described in said papers as the Attorney(s) herein,

Sworn to before me, this 10th
day of June

19 74

James Steele

Print name beneath signature

JAMES STEELE

ROBERT T. BRIN

NOTARY PUBLIC, STATE OF NEW YORK

NO. 31 - 0418950

QUALIFIED IN NEW YORK COUNTY

COMMISSION EXPIRES MARCH 30, 1975